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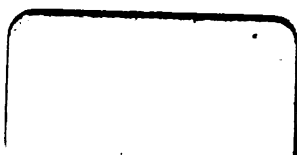
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Proceedings
of the
Fifteenth Annual Session
of the
Florida State Bar
Association

Orlando, Florida
June 14th, 15th and 16th
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JUNE 14TH

But I console myself with the thought that every member of the bar from another part of the State that we get to Orlando and the Seventeenth Circuit, will immediately become an ardent advocate of the removal of the state capital to Orlando, for the reason that if he cannot move here himself he will at least have the pleasure of coming here once or twice a year.

But I am not a very enthusiastic capital removal man, for I am rather like the distinguished member of the Legislature some years ago from one of the counties composing the Seventeenth Judicial Circuit. When the capital removal question was up before the Legislature during the recess he was found looking around the building, and he said, "It can't be did; there are not oxen enough in South Georgia to pull it."

Now, gentlemen, seriously, we are glad to have you meet with us at Orlando, in the Seventeenth Judicial Circuit.

I have absolutely no patience with this modern hue and cry against the law. We know it is the most self-sacrificing, the most honorable profession of all except perhaps that of minister of the gospel. It is an honor to any city, an honor to any community to have the representative members of the bar of the state as guests of that community, and without more ado I say to you that you are welcome, in every particular. You will find an entertainment committee to look after you, headed by that princely gentleman, Mr. Carl Robinson, and anything you do not see just ask for it and he will get it for you.

I thank you, gentlemen.

THE PRESIDENT: Gentlemen of the bar, ladies and gentlemen, I take great pleasure at this time to introduce another gentleman who came from the same great state. He has been for many years one of our number. I do not believe there is any man in this state who has been more interested in trying to help the young lawyer and to build up the integrity of the bar than Colonel William E. Kay, of Jacksonville.

MR. W. E. KAY: Mr. President, I was somewhat embarrassed when I saw by the change in the program that my old friend Alex Ackerman was to make the address of welcome. I said to myself, can it be that this Bar Association can stand two revised editions of Georgia, with new notes, in one day? But then I reflected, Mr. President, from the talk he has given us, he has already imbibed the spirit of South Florida; that he indulges, although he faintly ex-

presses it, the hope that in some future day Orlando will be the capital of South Florida.

Mr. President, we have an extended program of entertainment which this Bar Association of Orlando has so splendidly arranged. While we in Jacksonville feel that the logical place that these meetings should be held is at that point, yet we realize that at times it is good for the lawyers to go out from the metropolis into other sections of the state and to meet conditions, so widely heralded, of their growth and progress, as is illustrated in the city which is our host today.

We are here ready to receive, and perhaps I could best end this by saying, "Brethren, for what we are about to receive let us be truly thankful."

THE PRESIDENT: According to our Constitution the President of the Association is supposed to at this point make what is known as the annual address.

I have no apology, gentlemen, for the paper or address which I shall read to you. I have been thinking along this line for ten or twelve years, and if you can I would ask that you follow me closely.

The President thereupon delivered his address. (See Appendix, page 70.)

THE PRESIDENT: In line with the example of my predecessor I beg leave to submit a brief statement of my stewardship. I can only mention a few things in this report, those that I think you will be interested in.

The report of the President was read. (See Appendix, page 157.)

THE PRESIDENT: We will now have the report of the Secretary, Mr. Herman Ulmer.

The Secretary's report was thereupon presented. (See Appendix, page 159.)

THE PRESIDENT: Gentlemen, what shall we do with the report? There are several recommendations.

MR. E. P. AXTELL: Mr. President, I move that this report be referred to a committee of five to be appointed by the President, to make recommendations to this meeting.

The motion of Mr. Axtell was seconded and carried, and there were appointed on the committee Mr. E. P. Axtell, of Jacksonville; Mr. George P. Raney, of Tampa; Mr. C. F. Dickerson, of Orlando; Mr. G. P. Garrett, of Kissimmee, and Mr. Joseph H. Jones, of Orlando.

THE PRESIDENT: The matter that next comes before us is the report of the Treasurer, Mr. Phil S. May.

MR. PHIL S. MAY: Mr. President and members of the Association, before I take up my formal report I want to say that I have the books of the Association here with me, and if there are any details in which any member is interested I will be pleased to give him such information as I can. If there are any members who desire to pay their dues I will be glad to receive them at this meeting. In case any payments are made it is suggested that they be in the form of check or draft rather than in currency.

The finances of the Association are in fairly good shape, but as was covered by the President in his report, there is a great necessity for an increase in the income of the Association, in order that we may effectively carry out the ideas and ideals which we have thought can be accomplished by an increase in dues. The situation would be to a large extent relieved if all the members promptly paid the dues they are owing the Association.

The report of the Treasurer was thereupon read. (See Appendix, page 162.)

MR. ARMSTEAD BROWN: Permit me to offer a resolution, that this body extend its sincere thanks to the President and the Secretary and the Treasurer for their businesslike public spirit and thorough-going work during the past year.

MR. MAY: I rise to a point of order. I think there is a provision in our By-Laws that no such resolution be passed.

THE PRESIDENT: The point is well taken.

MR. W. H. PRICE: I would like to ask for information, by reason of a recommendation, about what is the estimate to pay for the actual running expenses of the Association? In considering whether the dues should be increased we should have some idea. Either the President can answer it or the Treasurer.

THE PRESIDENT: It would take about three of us, I imagine, to answer that. We have found so many ways that we thought the

legal profession in the state could be benefited that ten dollars possibly would not meet everything, but I don't believe there would be any feature in which it would not be judiciously expended. I merely suggested at least ten dollars because as you know five dollars does not go anywhere much, and ten dollars now is about what five was ten years ago, or when this organization first had its inception.

I think, for instance, we could get the Executive Council to meet us in Jacksonville if their expenses were paid. In other words, we all love the profession, but some of us are not financially fixed so we can lose a week or half a week and pay our own expenses. It is a labor of love and we all enjoy it, but the officers should not have to incur personal expense in attending to the Association's business. We ought to have, and I hope the time will come when the dues will be made twenty-five dollars a year. It is not much compared with the benefits we might get. It is possible to form a combination with the state printer to have the decisions of our Supreme Court printed at the end of every thirty days from the date the mandate goes down, so that we would get them then rather than have to wait sixty days, as is the case now. I find myself ruling on propositions involving real close points and not knowing that sixty days before the Supreme Court had passed on the same proposition, because I did not happen to see an outline in the paper. If it were not for our daily newspapers that give us a brief summary, I don't know what we would do. We can get out our own magazine or put it in some shape. That is one thing I had in mind and I was working on that line. Of course that will not be done unless it is found it can be done in a feasible way. That is my view on the ten dollars.

MR. W. H. PRICE: Mr. President, I move that the President file an itemized statement of his expenses incurred in his capacity and the Treasurer be instructed to pay that. I don't think the President ought to be required to incur any expense. As a matter of fact, I think he has enough to do without it.

The Secretary put the motion, and the same on being seconded was unanimously adopted.

MR. R. H. HENDERSON: There was a very pertinent recommendation in the President's report. The Secretary's report has been referred to a committee for further recommendation. I therefore move that a committee of not less than five be appointed to report

to this Association the recommendations of the President at this time.

THE PRESIDENT: May I suggest that the report be referred to the same committee?

MR. HENDERSON: I make the motion in that form.

The motion was seconded and on being put was unanimously adopted.

THE PRESIDENT: What shall we do with the report of the Treasurer?

MR. HENDERSON: I move that that be referred to the same committee.

MR. R. H. ANDERSON: I second the motion, and I would like to offer an amendment that the dues be increased to ten dollars and that this committee make the same in its recommendation.

MR. ARMSTEAD BROWN: I suggest that that be left to the report of the committee, because that is one of the things for the consideration of the committee, and I believe it would be better not to pass on that until we have heard from that committee.

MR. ANDERSON: I will withdraw the amendment.

The motion was put and carried.

MR. L. R. RAILEY: Mr. President and members of the bar, along the lines of the address of our President, I have a matter that I think is very pertinent to be put before the Association at this time. I am sure we all enjoyed the address of the President, and agree with what he said in that address.

One thing that is particularly pertinent to the resolution I propose to offer to you is the matter of the selection of officers in the three departments of our government.

Our fathers saw fit to divide the government into three departments, and make it a representative government, a republican form of government. The matter of immigration and assimilation, which our President has referred to, has to a great extent created a disrespect for the law, and I think a great deal of the disrespect for our laws is occasioned by the popular form of election of the judiciary.

I think the judiciary should not be placed in politics. I heartily agree with our President that the primary system of our government, while possibly a good thing at the time it was enacted, is putting in office men who are not selected because of their fitness, but who are

selected because of their general popularity as men, and that is true to a great extent in the judiciary, and I think that the judiciary should be kept out of the primary. The constitution of Florida, I think wisely, provided that the judiciary should be appointed by the Governor. The Governor should make a selection of a man on account of his fitness for the judiciary and not from any factional politics.

We have gone through a campaign just recently, a primary election in Dade County, a campaign for circuit judge, and there were matters and things which came up during that campaign which did not reflect credit upon the legal profession. It did not reflect credit upon at least one of the candidates, and for that reason I wish to offer the following resolution:

BE IT RESOLVED by the Florida Bar Association, That it is the sense of this body that the judiciary should be kept out of politics, and that the power wisely vested in the Governor by the Constitution of our state to appoint the circuit judges subject to confirmation by the senate, which removes the judgeships from the mire of factional politics and the entangling alliances incident to exciting contests, should be left where the Constitution places it, and that no method of nullifying this provision of the Constitution by indirection should be longer continued in effect, or permitted in the future.

BE IT FURTHER RESOLVED, That the Florida Bar Association respectfully requests the Democratic Executive Committee of this state to return to the former practice and time-honored custom of the Democratic Party in Florida of leaving the circuit judgeship out of the primary elections, leaving the method of appointment of our judges to the free and untrammelled action of the Governor of the state, under the sanction of his oath of office, subject to confirmation by the Senate, as provided by Section 8 of Article 5 of our Constitution.

BE IT FURTHER RESOLVED, That the President of this Association appoint a committee of three to bring this resolution to the attention of the State Democratic Executive Committee and to use their best efforts to secure favorable action thereon by such committee.

Mr. President, I offer this resolution and move its adoption.

The motion was seconded.

MR. W. H. PRICE: I desire to amend that resolution. I move that it be amended by adding the words, "Judicial officers, and the state attorney of the respective circuits."

MR. JOHN C. JONES: There is no reason why the judges of the criminal court should not be selected the same way.

THE PRESIDENT: They are in the general election by the Constitution.

MR. ARMSTEAD BROWN: Mr. President, in that connection permit me to make this suggestion. I apprehend it is going to take concerted effort to get action on the resolution as it stands, merely to return to the Constitution as it exists, as to circuit judges. If we weight this down by adding state attorneys and county judges, etc., it would make the matter absolutely impossible of success. For the time being the path of wisdom would be to get back to the Constitution on the circuit judges.

MR. PRICE: The Executive Committee has had this question up before it once before, as to the circuit judges and also as to the state attorneys. They were eliminated from the primary system. However, there was a great howl went up throughout the state and every paper got some statement from every man running for office, and I heard the chairman say that he had been cussed and recussed and discussed over that proposition more than any other proposition; but the judiciary in my opinion should be taken out of politics, and I think the prosecuting attorneys of the respective circuits are so closely allied with the judiciary that the framers of the constitution saw that they should not be elected by the voting power.

I merely move to amend the resolution to include the state attorneys for the various circuits in the state. If it is going to reflect on the resolution I will withdraw it.

THE PRESIDENT: Did you have a second to the amendment?

MR. G. P. GARRETT: Mr. Chairman, may I ask as a point of order, whether our by-laws provide for resolutions to be voted on at the time or—

MR. PRICE: Mr. Chairman, I ask to withdraw the amendment to the resolution. It might be better to take one office before the Executive Committee, and if Mr. Jones will accept the withdrawal I will withdraw my amendment.

MR. J. B. GAINES: I have been trying to practice law for a good many years, and my observation is that the closer we get back to

the Constitution itself the better for the state and for the judiciary. I think this resolution ought to be amended so as to include all appointive officers. Every judicial officer, from judges of the Supreme Court down to justices of the peace, should be appointed, and justices of the peace should be abolished.

Now, the Constitution makes the circuit judges and the state attorneys and the judges of the criminal courts appointive. That is a duty imposed on the Governor. His responsibility is his, and a usurpation of the Democratic Executive Committee cannot release the governor from that responsibility, and it is unfair to do it. It is hardly proper to say anything about the result of popular elections, but it is not fair to the judges themselves to put them into politics. It is not for the best interests of the people. I would like to see that resolution amended so as to exclude from the operation of this side-show election all appointive officers, and put the responsibility where the Constitution put it, because not only in that but in a great many ways the tendency is to drift away from the Constitution, and we have reached the point where we better call a halt.

MR. RAILEY: I agree with what Judge Gaines has said, and I myself am in favor of taking all appointive officers out of the primary system, and the reason that this resolution was confined to circuit judges is that in my opinion the circuit judges require a higher intelligence and a higher knowledge of the law than either the state attorney or the judges of the criminal courts. They have got to know more law. They require and should be of higher intelligence than the state attorneys at least. It does not require as much knowledge of the law or as much depth of a judge who sits as judge of the criminal court or acts as prosecuting attorney as it does to sit as circuit judge.

I believe if we encumber this resolution with all the appointive officers or if we include the judges of the criminal courts of record and the state attorneys, we are going to weight it down and it will be impossible to do anything with it, and for that reason I think it should be confined to the circuit judges, and then later on if we are successful in this we can go to them and try to have all appointive officers appointed and not elected, but not all at once. We have got to do it by degrees, because people as a rule think that they should have a voice in it. To give you an illustration, the campaign which we had in the Eleventh circuit, one of the candidates was endorsed

by ninety-seven per cent of the bar, and yet there was another candidate, and he used the argument in his campaign that the lawyers' trust was nominating the circuit judge and depriving the people of their constitutional right. That is the kind of argument that was used. As I say, I think the lawyers in any case are more of a judge of a man's ability than other people. The general run of people voting have no idea of a man's qualifications, and they can look to the lawyers to pick a man who is real judicial timber.

THE PRESIDENT: May I suggest that if anyone else has a resolution to include any other officer, he can introduce it and let it go on its merits.

The chairman of the State Democratic Executive Committee is present, and perhaps the Association would like to hear from him.

MR. GEORGE P. RANEY: I don't rise to oppose this motion. Some of you know how I voted on putting the circuit judges in the primary.

Six years ago the question came up before the committee as to whether or not we would put the judges in the primary. At that time it looked like a man might be elected Governor of the State of Florida, whom the state committee did not think was as well qualified to select circuit judges as the people at large, and I think the judgment of the committee was subsequently corroborated, and I think it was very fortunate that they were not appointed by the Governor.

As to whether or not there are some politics in the selection of a circuit judge in the primary or by the Governor depends very largely on who happens to be Governor, and whether or not he is a lawyer himself.

I want to call this to your attention: as a practical matter I would suggest if you expect any favorable action from the state committee on that resolution that you confine it entirely to the judiciary. In my judgment, I agree with the other gentlemen here, that if we put in there the matter of taking out of the primary the circuit judges, the judges of the criminal courts and states attorneys and solicitors of the criminal courts of record, when it comes before the committee it will be beaten.

I would call your attention to this: every circuit judge in the State of Florida, at the present time, has been nominated and those appointments will be made by the Governor at the next session of the

legislature, with the exception of Judge Simmons, so this question of the appointment of circuit judges will not come up for six years. The argument is used that the Supreme Court judges are required to be nominated in the primary and why not your circuit judges. Inasmuch as this resolution is hardly opportune at this time, for the reason that no circuit judges will come up for appointment, or rather come up for nomination by primary for the next six years, with the exception of Judge Simmons, in Duval County, if this Bar Association wants to do anything that will have any effect on the question ultimately why not take up something much nearer in point of time, pass a resolution asking the next legislature to amend the Constitution so that the Supreme Court judges are appointed by the Governor as well as the circuit judges, and then meet the question at the opportune time five or six years from now. If this resolution is adopted now you send it to the state committee and the state committee can take no action on it at the next meeting, it will not be a matter for the committee to consider for some time, and by that time there probably will be a change in the committee. It is not a matter of any importance now.

So far as my own observation is concerned we had a similar situation. Practically all the members of the bar endorsed Judge Robles; another man aspired to the position and ran in the primary and took the stump and made speeches all over the county. Judge Robles had the backing of the bar, did not go on the stump, did not take any active part in the campaign at all, and he was nominated by a vote of more than two to one.

Those are just some suggestions I have to offer.

MR. ARMSTEAD BROWN: Judge Robles was the incumbent already. Mr. President, I think the moral effect of this resolution would be good if passed at this time, and that the Executive Committee could not oppose it. It is much easier to return to the Constitution than to amend it. Judge Raney's argument seems to be based on the assumption that few die and none resign. It might be some few vacancies will occur, and therefore I want to go on record as favoring a return to the Constitution in this matter.

THE PRESIDENT: Gentlemen, the original resolution is before you. Out of the sixteen judges, I took a pencil and paper the other day and I found every single one of them was appointed. Not a

single one was elected. They were appointed, first, because of the selection of the bar of their circuit, and none of them were elected. By virtue of that fact they had time to establish the confidence the bar had shown in them, and many of them had no opposition. Where they did have opposition it was defeated, and I believe it was due largely to the fact that they were selected originally by men who knew they had to get good men or they would have trouble.

Shall we act on this at this time, gentlemen?

JUDGE W. H. ELLIS: Mr. President, with the greatest deference to the gentleman who offered this resolution I feel that we might act a little precipitously in the matter of action upon this resolution now. I think it should be referred to a committee, and let the committee report upon its attitude regarding the resolution, because if perchance the resolution should be defeated, then information would go out from this meeting that the Bar Association of the State of Florida is opposed to the constitutional method of selecting trial judges. On the other hand if the resolution passes the information will go out that the Bar Association has made a request upon the Democratic State Executive Committee, which Mr. Raney has just said would probably be done. I don't want to do anything ineffective. I believe there is plenty of time in the future of the State Bar Association to deal with these details.

I think there is a far greater work before the Bar Association of the State of Florida than the matter of the selection of the judiciary or the raising of its dues to meet expenses for banquets and so on. I think that the State Bar Association of Florida owes a duty to society, and that duty can best be met by informing the people of the State of Florida that the Bar Association proposes to stand as a man in favor of cleaning its own house, and to fix the standards for admission to the bar and standards for remaining as a practitioner in this state, that will convince the people in this state that the bar is working in the interests of the people of the state, so that when it makes a recommendation it will catch the ear of the people of the state.

I don't believe the resolution offered here today would do that. There will be a passing notice in the papers and that will be the end of it, and if there should be any unfavorable action upon the resolution it might have the effect of placing the Bar Association really in a

wrong position, for I think every member of the bar is in favor of the constitutional way of doing things, and that if there should be any unfavorable action on the resolution it would not express the idea exactly of the legal profession of Florida, and I think the matter might be given a little more consideration.

I do not profess to be able to give all the reasons pro and con, but I think a committee might pass upon it and submit its views, based upon other considerations than the real merits of the resolution, and I think it would be well to follow the suggestion made to refer the resolution to a committee with a request that it report back at some later hour during the session.

MR. W. A. CARTER: Mr. President, this question of committees has been carried so far that it seems to be practically impossible for a body to act without it, and I am opposed to it. A committee might be all right in Congress, where they have five hundred members, but—

A VOICE: The motion was not seconded.

MR. CARTER: I am addressing my remarks to the gentleman's argument. He seems to be extremely afraid that a majority of the members of the bar are not willing to express themselves; that the power of appointment should remain where the Constitution of the State of Florida placed it. I have no such fear, and I think we should vote on this matter without referring it to any committee.

THE PRESIDENT: The motion is on the adoption of the resolution as read to you. Are you ready for the question?

The motion on being put was carried.

THE PRESIDENT: Gentlemen, we have arrived at the adjourning hour. There are other matters of vital importance to the Association that we should take up, but we will have to adjourn at this hour, and the program is that you shall meet back at this building at three o'clock, and the local committee will then take you in charge.

The meeting was thereupon adjourned until 10:00 A. M. the following day.

Morning Session

JUNE 15TH

Pursuant to adjournment the convention met at 10:00 A. M. at the Rosalind Club.

THE PRESIDENT: Gentlemen, it will be better if you will come up closer. It is very hot and we are going to have to keep these fans going.

I am requested by the Secretary to ask that all members of the Association register in that book by the door. If you have not done so, do so at once, as it is very necessary that we get a permanent record of the men who attend this Association. The time will come, if not now, that we may feel proud of the fact that our name appears on the attendance record of each session.

I want to just briefly call your attention to some of the things that you might expect relative to the entertainment. There will be a smoker tonight at the Country Club, at which the men only are invited. There will be a banquet tomorrow night to which the ladies are invited, and we want to know this afternoon how many. Of course we expect the members of the bar, but we want to know how many, so the committee can prepare for that banquet tomorrow night. I want to see the time come when every member will bring his wife with him, and she will be almost a member, a near member, if you want to call it that.

In regard to the smoker tonight, I think the best way to do is to meet here, so the cars will be ready and can take you out from here. It is exceedingly difficult to get anywhere near the hotel in Orlando; in fact you can hardly do it; one has a better chance most anywhere else in getting up to the curb, because there are so many automobiles in this county. So at eight o'clock tonight, unless otherwise notified, we will meet here and get in cars and go out to the Country Club, which is out about two miles. We have tried to arrange a program that we think is worth while. That is the play ground of the Association.

I want to bring to the attention of the Association a matter which is of extreme importance to the Southern Federal District Court. We have a wire in which it is said, "Bills for appointment of

additional federal judges which have been supported by American Bar Association passed both houses of Congress. They differ slightly and are in hands of Conference Committee which so far has been deadlocked. If you feel that you can consistently do so, please telegraph Senator A. B. Cummins and Representative A. J. Volstead, who are senior members of Senate and House, respectively, on Conference Committee advising of great interest of bar in having relief given to courts owing to great congestion of business, expressing hope that Conference Committee may speedily agree upon a bill. If you could get similar telegram from President of your State Bar Association it would be helpful." This telegram is signed by C. A. Severence, President of the American Bar Association. This came a little before the session convened, and it is his request that I, as President of the Association, wire the chairman of the respective committees on conference. I declined to do it at that time, feeling that whatever I should wire might be considered more or less an individual expression of myself, and I decided that I would wait; that if a committee were appointed at the time the Bar Association convened, and if we would approve a resolution or a motion authorizing such a message to be sent by the officers of the Association, it would have more power to it. In other words, I want to fire a sixteen-inch gun instead of just an ordinary rifle.

Now, I am submitting this to the Association and in the meantime our Secretary has drafted a resolution which may form the basis of direction to the conference committees in Washington. It would probably be best, and I hope you will pardon me for making this suggestion, after any resolution has been made or motion made, that we submit that proposition to a committee of three; and let's make no mistake; let it be diplomatic, but let it state without reservation the cause for which we sent it.

MR. W. H. PRICE: I move that a committee of three be appointed to consider the resolution prepared by the Secretary and report back their doings to the Association, and the sense of the Association may be taken on this telegram afterwards, in accordance with the resolution.

MR. W. E. KAY: I move to amend that by requesting the President to send the identical message he has talked about.

THE PRESIDENT: I suggest this, that the Secretary read the

resolution that he has drafted, he and I together, and I am sure it can be improved upon.

MR. PRICE: That may be. I have not seen the resolution, and it was at the suggestion of the chair that I made the motion.

THE SECRETARY: Gentlemen, this resolution is in very rough form, having been drawn up hurriedly, in view of the fact that it would be sent to the committee for redrafting:

WHEREAS the Senate and House of Representatives of the United States have passed an Act authorizing an additional federal judge for the Southern District of Florida; and

WHEREAS certain differences in said Act as passed by the Senate and as passed by the House have necessitated the reference of said Act to the Conference Committee; and

WHEREAS the congested condition of the docket of the Federal Court for the Southern District of Florida and the consequent deplorable delay in the administration of justice render immediate relief as provided in said bill imperative; now, therefore,

BE IT RESOLVED by the Florida State Bar Association, That the Conference Committee of the Senate and House of Representatives be advised of the urgent necessity for relief in this district, and that they be requested to report said bill at the earliest possible moment.

MR. PRICE: It seems to me that that resolution is all that is necessary, without the appointment of a committee. I therefore move the adoption of the resolution.

The motion was seconded.

THE PRESIDENT: We will consider the motion withdrawn then?

MR. PRICE: Yes, sir.

MR. W. W. DEWHURST: Have you any objection to adding that a copy be sent to the Attorney General?

MR. PRICE: I think that is a very good idea.

MR. J. C. JONES: I do not think the resolution is entirely diplomatic in its wording. We do not want to enter into that trouble up there, and I believe it could be made just a little more diplomatic.

THE PRESIDENT: If it is the sense of this body, gentlemen, that we take that into consideration in formulating it, we will do so. Of course, under the circumstances necessarily I preferred that a committee draft it and present it this afternoon at the meeting right after the noon hour.

MR. W. HUNTER: As a substitute I move that this matter be referred to a committee and that they report back this afternoon.

MR. PRICE: I have no objection to that course.

The motion was seconded and carried.

THE PRESIDENT: I will appoint Judge Price, Senator Massey and Colonel Kay to take the resolution as drafted, and report on it this afternoon at the convening of the session.

Gentlemen of the bar, I have received messages and resolutions, probably you have, upon the question of this Association endorsing some one for the new judicial position for the Southern district, if it is created. Now, if I should withhold these messages and withhold the resolution that I have, it might be considered that I threw them in the waste basket, and I do not want to be put in that position. My judgment is—has anyone anything to say on the proposition?

MR. PRICE: I do not think it is a good idea for this Association to go into politics. Our Republican friends can control it. Several of our friends are members of this Association, and I think as a matter of fact it would not be good policy to do anything of that kind, and as an Association I am not in favor of it.

MR. C. B. ROBINSON: Mr. President, I move that the communications be filed and that the sense of this meeting be expressed in accordance with Judge Price's views, and that the Secretary be instructed to notify them that such is the case.

The motion was seconded and carried.

THE PRESIDENT: Gentlemen, yesterday we did not quite get through with the regular business, and I assume it will not take very long this morning. It is customary at the convening of the Bar Association on the first day to ask for the report of the Committee on Admission. Mr. John C. Cooper is chairman of that committee.

THE SECRETARY: Mr. President, I wish to say, on behalf of Mr. Cooper, who advised me he would not be present at this meeting,

that all the applications turned in during the year have been acted upon by the Executive Council, as set forth in the report of the Secretary. I understand there are several attorneys present who are not members of the State Association and who desire to become members. If they will turn in the application form accompanied by draft for five dollars the application will be acted upon at this meeting.

THE PRESIDENT: The next is the Committee on Legal Reform. Is the chairman of that committee present? Mr. W. H. Watson, of Pensacola, is chairman of that committee, Mr. J. H. Johnson next in line, Mr. Alderman, Mr. Duval, of Ocala, and Mr. Duncan, of Tavares.

The Committee on Legal Education. Mr. Glenn Terrell is chairman of that committee, and I happen to know he is in Washington. I suppose that will be our theme tomorrow.

The Committee on Grievances.

The Committee on Legal Biography, Mr. F. V. Carter, of Pensacola; A. W. Cockrell, of Jacksonville; F. M. Hudson, of Miami; T. F. West, of Tallahassee, and William Hunter, of Tampa.

Gentlemen of the Bar Association, it is customary in the American Bar Association for the chairman of all committees to make their reports in writing and have them in the hands of the Bar Association at the time they convene. In fact, they have them printed, and I think I will suggest to the next President of your Association that he require that.

The Committee on Ethics, A. W. Cockrell, of Jacksonville, chairman. Is there any one here to make a report of the Committee on Ethics?

Now, gentlemen, we come down to the regular program for today.

It was just exactly one hundred years ago that the Territory of Florida got her charter from the United States Government. That means a great deal to some of us, whose forefathers and ancestors came to this state at that time. They had to face a very serious situation. I am sure you are all well enough acquainted with the history of this state to know what these pioneers had to face. The cemeteries or their last resting places are not even marked, and they are almost unknown today.

Whatever has been accomplished in the way of a constitution, in the way of statutory laws, has been accomplished largely by the mem-

bers of the profession to which you belong. A reading over of the constitution of this state and of the list of the membership of the legislature will convince you of that fact. We thought it only fitting that we devote at least one day to reflecting back and determining if we can, more particularly, the blessings we are enjoying, and from whence they came. This should be especially interesting to those members of the profession from other states of the Union, and they are here from every state. They are not like some of us who were born and raised in the state; they would like to know something about some of the men who have shaped and formed the government of this state, which is really the Italy of North America. You can only reflect back about a year and find that Florida, and especially South Florida, was about the only oasis in the desert of the financial world.

We thought it was fitting that we should not overlook the great influence of our profession on the history of Florida and those members of the bar who come from other states are entitled to know some of these facts that they cannot find elsewhere. It was our purpose in putting this in today's program to put it in permanent form, so that future generations, your sons and the men who will come to this state, may know, when they read about certain men, something definite about the service they performed in the shaping of the government of this state. We want to know something about the gentlemen that were on the Supreme Court bench for those hundred years, of the executive and of the legislative branch of the government. We intended to have that latter subject, but it was impossible, because of the lack of time and selecting a man after one had declined it.

With that in view we will enter into our regular program as far as possible.

There was to be an address by Hon. William B. Sheppard, judge of the Northern District of Florida, who has been long on the bench, and who is a native of this state. I am very sorry, indeed, to announce that Judge Sheppard cannot be here. His term was set for him in Savannah, Georgia, where he had to go to relieve another Federal judge. He had advised that his paper would probably be presented by the United States attorney for the Northern district, but I fail to see him in attendance, and it is possible he has been detained also.

The next paper on this program is an address, "A Century With the Supreme Court Justices of Florida." You will note that this paper is prepared by Justice J. B. Whitfield. There is possibly no man living in this state, and I was so advised by the chief justice, that knows as much history as the man who prepared this paper, upon the judiciary of this state.

I now present Mr. C. B. Robinson, of the bar of Orlando, who has been delegated by Justice Whitfield to deliver his address.

MR. ROBINSON: Mr. President, ladies and gentlemen of the bar, needless to say I consider it an honor to be asked to read Judge Whitfield's paper. My only regret is that it is utterly impossible for me to present it as I feel Judge Whitfield would have done.

Judge Whitfield's paper covers a period of more than one hundred years and contains a great deal of data, compiled with painstaking research, which probably could not be found in the ordinary histories of Florida.

Mr. Robinson then read the address of Justice Whitfield. (See Appendix, page 80.)

THE PRESIDENT: Ladies and and members of the bar, in carrying out our purpose of calling this a centennial day it was our scheme to have three separate departments of the government represented in a paper or an address. The man who I am going to introduce now, perhaps better than anyone in this state, can handle the subject assigned to him. He lived for four years in the mansion in this state, from 1889 to 1891, and he will address you on the subject, "A Century With the Chief Executives of Florida." I have the pleasure of introducing to you Hon. Frank P. Fleming, of Jacksonville.

MR. FLEMING: Mr. President, ladies and gentlemen: One advantage of presenting the first paper in a series is that the author of the first paper will not be accused of plagiarism. Be that as it may, there are some things left to be said about the Governors of the state, although the time in which I was limited gives but scant opportunity to do justice to some of the excellent work which we should do for the benefit of our beloved Florida.

Mr. Fleming then delivered his address. (See Appendix, page 92.)

THE PRESIDENT: Ladies and gentlemen and members of the Bar Association, a mention of the next number brings back many fond memories to every man who has practiced law in this state. At the time of the death of Hon. W. A. Blount, about a year ago, he was President of the American Bar Association, which includes Canada and the United States. He was once President of this Association. He has held many important positions of honor. I am going to leave the whole subject to a man who often met him on the legal battlefield, Hon. John E. Hartridge, of Jacksonville.

MR. JOHN E. HARTRIDGE: Mr. President and members of the Bar Association, ladies and gentlemen, I regret exceedingly that the words I want to speak I hold in my hand and have not been written in my memory as I would like to talk them to you.

It was Rufus Choate who said that a lawyer's vacation was the time elapsing between the propounding a question and receiving the answer. I assure you with the many calls upon my time that the opportunity has been as limited almost as Mr. Choate's definition of a lawyer's vacation.

Mr. Hartridge then delivered his address. (See Appendix, page 99.)

MR. HARTRIDGE: I might add that when the death of Mr. Blount was made known to me the words of Tennyson came to me:

"Sunset and evening star,
And one clear call for me!
And may there be no moaning of the bar,
When I put out to sea.

"For tho' from out our bourne of time and place
The flood may bear me far,
I hope to see my pilot face to face
When I have crossed the bar."

THE PRESIDENT: I will be glad if the committees which were to report this afternoon would be ready on the matters that have been submitted to them. The adjournment hour has come, and we will take up the program where we left off. We will now adjourn until 2:30 this afternoon.

The session was thereupon adjourned to be resumed at 2:30 o'clock in the afternoon.

Afternoon Session

JUNE 15TH

At 2:30 P. M., Thursday, June 15, 1922, the session was convened pursuant to adjournment.

THE PRESIDENT: Gentlemen, I noticed quite a number sitting in the back of the room this morning, and I know they must have missed some important things that came up this morning. When you have to sit back so far you are going to miss some of the things that are prepared for you. I merely make that statement out of an abundance of caution.

The chairman of the bar banquet would like at this time for every man to stand up who will be able to attend the banquet tomorrow night at the Country Club. Now, those who expect to bring their ladies, stand up. We hope there will be lots of you stand up, gentlemen.

Now, gentlemen, make yourselves as comfortable as possible.

Before we take up the report of the committees, we have an interesting number prepared by an honorable member of this profession, who has been practicing law for possibly longer than your President has been living. He has written books that have become well known nationally, one on Federal Practice and one on the History of Old St. Augustine, the oldest city in North America. There is no man probably living now who knows more about the Florida purchase than the Hon. W. W. Dewhurst, of St. Augustine, who will now address you.

Mr. Dewhurst then delivered his address. (See Appendix, page 103.)

THE PRESIDENT: Gentlemen of the bar, we were to have an address by Hon. H. D. Clayton, judge of the Southern District Court of Alabama, but he could not be here today. We will have a treat for you tomorrow. We have several things on the program that are going to be of vital interest to the Bar Association also.

I will now entertain the reports of the committees which were appointed to look into one or two matters, or any other matters necessary to bring up at this time.

MR. W. E. KAY: Judge Price has the report of the committee on the federal judgeship.

MR. W. H. PRICE: Mr. Chairman, your committee has investigated and we have reached the conclusion that it would not be expedient for us at this time to take any action with the Conference Committee, and we, therefore, offer the following resolution:

WHEREAS provisions for the appointment of an additional district judge for the State of Florida, is contained in each of the bills passed by Congress, and

WHEREAS the differences existing are of such nature and character that this state is not interested, other than in an early adjustment of differences existing:

THEREFORE BE IT RESOLVED, That we do not deem it expedient at this time to take any action by wiring to members of the conference committee of the respective houses of Congress with reference to their duties as to the enactment of the law providing for the appointment of an additional judge.

We think under the circumstances that it is not necessary that we should interfere with the chairman of these respective committees, and they should work out their own differences. It would only be a few weeks before it would be adjusted and the State of Florida has virtually nothing to do with the differences that may arise there, and therefore I move the adoption of the resolution.

MR. FRED FEE: My understanding, or my reading of the newspapers, was that the Senate bill provided for an additional judge for the Southern District of Florida, but the House bill did not.

MR. PRICE: Both bills provided for an additional judge for Florida.

MR. W. W. CLARK: As a matter of fact the House bill carried an appointment of an additional judge in Florida. When it went to the Senate it was knocked out in the committee and put back by the Senate, and both bills carry an additional judge for Florida.

MR. W. HUNTER: I am not satisfied with handling this thing in this way. The Southern District of Florida, and all the lawyers in it, have been crying and howling for an additional judge. If the State Bar Association goes on record that it does not even care, there has been a fight on previously in the House and in the Senate, and

they are in controversy about it now, and if we send a resolution to the effect that we don't care what they do, it may be that they would cut it out. I would suggest if we don't pass this that we let the whole thing alone.

MR. PRICE: I think the gentleman misunderstands the meaning of the resolution. The idea is this, it is not necessary at this time, so far as the taking of any steps in wiring the chairmen of the committees. It is based solely upon the proposition that the appointment of the additional judge is already embraced in the respective bills and the telegram to the Conference Committee urging expedition of the matter would be of no avail.

MR. KAY: Mr. President, the committee started deliberation with the thought of doing exactly what that telegram asked, and the committee got the exact information and they were apprised that the bills now before the Conference Committee both embraced the relief that Florida wanted, and the contests were over matters with which Florida was not concerned. We felt in view of the hard fight that had been made by Senator Fletcher to get Florida included in the measure it would be the part of wisdom not to agitate it where these men had the matter before them in Congress, and would certainly act during the present session of Congress.

MR. CLARK: I would like to know if this association has already gone on record as favoring an additional judge for the state? If this Association has not I don't see that it would do any harm to go on record as favoring an additional judge for this state, because we do not know what the Conference Committee will do with that bill before they get through with it, and a resolution passed by this Bar Association could have some influence in retaining the additional judgeship for this state. But I think we should let the Conference Committee alone, simply place ourselves on record.

MR. PRICE: I heartily approve of this Association going on record here simply passing a resolution in favor of an additional judgeship in Florida.

MR. KAY: I will say for the information of the gentleman there is hardly a lawyer in Florida who has not written to his Senator and Congressman urging action favorable to an additional judge for the Southern District.

MR. W. W. DEWHURST: I think this might be referred back to the committee for further consideration, for this reason, and I

simply want to state the ground of it, if we do not think there is enough to it, with a letter from the Attorney General in which he states that the reason that the bill of Senator Fletcher failed in the Senate was the fact that the Senators generally believed that Florida did not care for it. He said in his letter that no member of the Florida delegation in the House had done anything for it, and one member had opposed it, and he thought the prevailing opinion among the Senators was that Florida people did not care anything about it or did not want it. Now, then, if this be referred back to this committee to frame a resolution which should not undertake to dictate to them, but simply state the urgency of another judge for this district, it seems to me it might be so framed.

MR. KAY: Could we not meet the situation in this way: without referring it back, because the tendency is too much to refer to committees, that what this body ought to do is to pass a resolution here commending Senator Fletcher for the excellent work he has done in procuring the recommendation in this measure for an additional judge for the Southern District of Florida, and to urge upon him to continue that same good work, and bring the matter to the President?

MR. HUNTER: I want to suggest something. Mr. Severance, who sent the telegram, is President of the American Bar Association. He is active in this entire matter of trying to get additional judges all over the United States. He is in touch with that situation. They have eighteen judges in this bill, and the only thing he asks us to do, and I think it is mild and the gentlemanly thing to do, is to urge upon Congress and the committee, or express to them, the hope that they will soon agree upon a bill. There is nothing that is radical; there is nothing that anybody can take offense at, and it will put this Association on record as being in favor of that bill, because it includes the judge we need in Florida.

MR. L. R. RAILEY: As I understand the only matter before the house is the report of this committee. I want to offer as a substitute to the report or resolution that the Secretary be instructed to send to the Conference Committee a telegram worded as follows: That the Florida State Bar Association earnestly hope that the Conference Committee will as speedily as possible reach a conclusion as to the bills now before it creating additional district judges in order to relieve the congestion of the district courts.

MR. KAY: I move to lay that on the table.

The motion of Mr. Kay was seconded.

MR. O. K. REAVES: It is not before the house anyway, because there is a motion pending.

MR. RAILLEY: I move to substitute—

MR. FEE: Does that carry the whole subject?

THE PRESIDENT: The question on the substitute comes first. If it prevails the original motion is lost.

MR. J. C. JONES: It is the opinion of the Bar Association that we want an additional judge. Now, if we pass such a resolution and don't put anything else after that, it is all right. We want first to establish the idea that it is the consensus of opinion of the Bar Association of Florida that we want another judge, and that is all.

MR. DEWHURST: I make a motion that it is referred back to the committee. If you get it back to the committee you will get it in proper shape.

THE PRESIDENT: The motion before the house is to table the substitute motion of Mr. Railey.

The motion on being put was declared carried, and a division having been called for and granted the motion was adopted.

MR. KAY: I move as a substitute that the State Bar Association pass a resolution worded as follows:

Be it resolved, by the State Bar Association of Florida, That it recognizes the extreme urgency of the early passage of the bill for the creation of additional judgeship.

Be it further resolved by the State Bar Association, That it is the sense thereof that the situation in Florida is such as to require such passage without delay; and that this resolution be passed and then it can be forwarded on.

MR. S. E. FUTCH: Mr. Chairman, I move you, sir, the previous question, on the adoption. The motion before the house at this time is the report of the committee as read by Judge Price.

THE PRESIDENT: The motion at this time is on the report of the committee. The motion was seconded; are you ready for the question?

The motion was lost.

MR. DEWHURST: I move that the matter be referred back to the committee with directions to bring in a report that it be the sense of the Association, and this Association recommends, that there shall be an additional judgeship in Florida. Make it just a short telegram of that kind and I think it would do some good, but I don't think it would be well to undertake to tell them what to do.

MR. KAY: I make this motion, that the following resolution be passed: Resolved, That the State Bar Association of Florida heartily endorse the bill now in conference allowing an additional Federal judge for the Southern District of Florida, and we earnestly request our Senators and members of Congress from the Southern District of Florida to aid in having the same enacted into law.

The motion of Mr. Kay was seconded.

MR. J. C. JONES: Mr. President, I believe Colonel Kay has expressed it nearly as good as I could myself. What we are after is the result. We want a Federal judge and we want to urge them to give us a Federal judge, and we don't want to take any part in the quarrels and disputes up there. I heartily second Mr. Kay's motion. I don't know whether he made provision for the Secretary to send that message or not.

MR. KAY: That goes as a matter of course.

The motion made by Mr. Kay on being put was unanimously adopted.

THE PRESIDENT: Is there any other report ready?

MR. E. P. AXTELL: The report of this committee is in such shape that I will be compelled to read it myself.

To the President and Members of the Florida Bar Association:

Your committee, appointed to report upon the recommendations contained in the reports of the President, the Secretary and Treasurer, beg to report as follows:

(1) That your committee has deferred action upon the recommendation of the President upon the bill presented to the Legislature of 1921, regulating the admission to the bar, disbarment, etc. It is deferred until after the discussion to be had tomorrow (Friday) upon the question of "Legal education and admission to the bar."

(2) That the annual dues of the members of the Association shall be, after the year 1922, ten dollars per year.

(3) That Article IV of the Constitution be amended to read as follows:

ARTICLE IV. *Election of Members.* Application for membership may be made to the President of the Association, and be by him at once reported to the Committee on Admissions, which shall thereupon examine the same and report thereon with its recommendation to the Association at its next annual meeting or to the next meeting of the Executive Committee, whichever occurs first. The members of the Association or of the Executive Committee at such meeting shall thereupon vote on said application. Such vote may be either by ballot or *vive voce*. When applications are referred to an annual meeting of the Association, one negative vote in every five shall defeat an election. When referred to a meeting of the Executive Committee, one vote in the negative shall defeat an election.

(4) That Article IX of the Constitution be amended to read as follows:

ARTICLE IX. *Committee on Admissions.* It shall be the duty of this committee to examine into the qualifications of every candidate proposed to the President for admission into this Association and to report thereon with recommendations to the next annual meeting of this Association or to the next meeting of the Executive Committee, whichever first occurs. The proceedings of this committee shall be deemed confidential and shall be kept secret except so far as the report or recommendation of the same shall be necessarily and officially made to the Association or the Executive Committee.

(5) That Article XII of the By-Laws be amended to read as follows:

SECTION XII. *Candidates for Membership.* Applications for membership must be in writing and addressed to the President. Each application must be accompanied by a deposit to cover one year's dues in the Association. All applications shall be referred by the President to the Committee on Admissions. Applications shall state the name and place of applicant's admission to the bar and such particulars as may best make known his character and professional status. No rejected candidate shall be again pro-

posed for membership until after the expiration of two years. If any person elected as a member does not within three months after notice thereof sign the Constitution or by letter to the Secretary authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

(6) That Section VI of the By-Laws be amended to read as follows:

SECTION VI. *Officers of Committees, etc.* In appointing committee the President shall in each case designate one member thereof to act as chairman. Each standing committee shall continue until its successor shall be appointed.

(7) That the salary of the Secretary of the Association shall be six hundred dollars per year, and that the salary of the Treasurer shall be three hundred dollars per year.

That is the report of the committee.

MR. KAY: I move the adoption of the report except as to the matter reserved, the only matter being reserved for discussion being the incorporation of the bar and the bill presented at the last session of the Legislature.

THE PRESIDENT: Yes, sir. There is one proposition, gentlemen, that I think ought to be incorporated in it. That is, that when a person applies for admission into the Bar Association and sends it to the President it ought to have the endorsement of the President of the local bar or the Secretary.

MR. KAY: I move, then, that that be incorporated in there by a suitable paragraph.

A VOICE: You might have a local association something like we have in our county, that meets about once or twice a year, for a feed or something.

THE PRESIDENT: I don't mean that they approve it in open session; two officers of your Association could do it.

THE SECRETARY: If I might read a part of this proposed amendment to Article XII, "* * * And such particulars as may best make known his character and professional status." I would suggest as the time is getting short and we have so many important

things still to come up, that the form of application could prescribe what the officers think necessary in the way of information.

THE PRESIDENT: All in favor of the report as presented by Mr. Axtell will signify by saying aye.

The report was adopted.

MR. KAY: The committee having reserved to be brought before this body for its action the first subject mentioned, that is the matter of the bar incorporation, and the President having announced that they would take it up tomorrow, I am compelled to announce that I will have to leave to return to Jacksonville tonight, and as it is in order now I want to appeal again to the lawyers of the State of Florida, first, to organize.

Two years ago at the Jacksonville Association, when officers were elected, I tried then to help to unite the Association. I said then and I repeat now that everywhere around in the civic life you see organization as the keynote; every branch of business, every line of endeavor stands together, united, and when they voice their claims they are felt and heard, and we must be blind indeed to fail to recognize just what those things have accomplished.

What have we done? What legislation is there on the statute book of Florida, written at the behest of the Florida Bar Association? The fourteen years that we have been together have been pleasant years of association and meetings, but they have been latent of producing any results and we have sat by and seen things go by without adequate legislation; we have seen results accomplished that were not of our liking, that were in our power to change, but because the bar of Florida did not stand united and voice their wants we have been as idle as a painted ship upon a painted ocean.

No higher duty can rest upon any lawyer than to raise the standard of his profession. We are the makers, or should be; we are the conservators of the law; we are ministers in the temple of justice; we should keep the fires burning; but instead of that, gentlemen of this Association, we have sadly neglected our work, and instead of being the directing force, we have failed to do one constructive thing.

Judge Ellis, when he was President, sounded the keynote. The reverberations of that ought to be in the ears of every man in the State of Florida. You owe it to yourselves, you owe it to the peo-

ple, you owe it to the profession, that you should look at something more than the mere book learning of the man who is in the profession as your professional brother. The highest and first test should be that of moral character and fitness, for as a lawyer is regarded in the community just that much does his power increase with the people with whom he mingles.

I believe in organization and I believe in concrete work and there is a concrete work before us. If the lawyers of Florida will unite shoulder to shoulder they can accomplish that work.

This body knows, as I know, that the examination for admission to the bar as now held is a farce, and it ought to be corrected. You and every one of you know that relief should be had. We may differ about details, but we cannot differ about measures. The time is overdue; the responsibility is upon us. We should face it as we face every other responsibility in life, and we will be helping each other and helping the people and helping the profession that we are proud to be members of. We should so build up and so increase the quality that every man at the Florida bar will be known in the hearts of every man in the State of Florida with whom he comes in contact as an attorney and treated as such.

I believe in the doctrine of hard work, because I have been nigh forty years a hard worker myself. I believe that this Association at this meeting should continue the work already outlined and already well started. I had to decline, out of a sense of duty to the Association, the election of presidency that you gave me at the last session, because I thought then and said that I was more interested in men than measures. I care more for the success of this institution than I care for the compliments of any individual. I charge you, gentlemen, as your friend and associate, as one who hopes to see something good accomplished, that you carefully select your officers, and if you have any doubt about it ask those who are in favor of the measure, and they will explain to you what it means.

Every Senator and member of the House elect is now known. The officers elected at this meeting should be men who will take this as a sacred duty upon themselves and as a charge to promote the work of the bar. The election should not be a formality and complimentary, but every man should treat it as a duty, in his particular section, to see his Senator and member of the House and explain the merits of the measure and to assure the co-operation necessary. By

such work you will be able to select men who will be willing to give the time necessary and proper to stay in Tallahassee until the measure has received the governor's signature. There are men so equipped. Surely the bar of Florida, with such equipment, can find such a man to devote his time to such meritorious work, and I cannot but in closing remark that the wisdom of an all-wise Providence, when the officers elected at this meeting are named, will see that each and all will feel that the charge is laid upon his shoulders to go out in behalf of the people and in behalf of the profession to carry to a legislative culmination the work which means the raising of the standard, the increasing of respect and the growth and the power of the noblest profession that God ever made.

THE PRESIDENT: Gentlemen of the bar, this is an important subject, and that special recommendation of your President was reserved out of the report, as you notice, for disposition. Now, I suggest if anybody has a dagger to stick in that bill or stick in that proposition, now is the time to do it. Let's all find out just where we stand. Are you going up or stay on a level or are you going down? That is the proposition.

MR. ROBERT H. ANDERSON: Mr. President, with some diffidence I rise to make a few remarks about this bill, and that diffidence is on account of one or two thoughts that I entertain. First, because the question almost immediately precedes the annual election of officers of this Association, and I want to say at this time that neither have I now or have I at any time or do I ever expect to hold office in this or any other Association. I am not an office seeker, and I little care who are elected officers of this Association so long as they are representative men and men of high moral standing and men of integrity.

The second thought is this, that on account of the consideration respecting the raising of the standard of the bar being injected into this argument, it becomes a difficult question to discuss, because there is no man in this room at this time who would dare get up and advocate a measure lowering the standard of the bar, although he might be accused of indirectly undertaking to accomplish it by opposing this proposition.

In the third place, Mr. President, I have some diffidence in discussing it, because I am not as familiar as I would like to be with the provisions of this proposed bill. Somebody might properly ad-

dress a pertinent inquiry respecting some of the details of the bill and I might find myself embarrassed for a ready answer. So at this time I disclaim any intimate knowledge of the workings of the bill. I disclaim any desire to hold political office; but I want to say this, Mr. President, that I am not in favor of organization as a general proposition. I admit that highly organized and concentrated minorities might force their views on any community, and we have seen events in the recent past, where they have forced it on an entire nation. It does not make a particle of difference with me whether the engineers or the carpenters or the doctors and merchants and all the rest of them get out and organize and join labor unions if they want to. I don't hesitate to pride myself on the fact that the lawyers are a non-union organization; they are a non-union crowd; they can represent anybody that has a meritorious cause if they want to, or they can decline to represent anybody, and I don't care, Mr. President, to see the lawyer placed in that position by an organization of which he is a member, by which his employment to represent any meritorious cause, might be jeopardized.

The Supreme Court of this state is vested with the authority to admit members of the bar, and we cannot take that authority away from them. I do not understand it is the purpose of the bill to take it away from them, but merely to act in an advisory capacity to the court. What good will it accomplish? If the Supreme Court of Florida at this time is admitting people to practice law that it should not, that is an indictment against it, and it ought to come up and defend itself. They have got the power to turn people away from the bar; they have got the power to make the examination as rigid as they care to; they have got the power to inquire into the mental or moral qualifications of the applicant for admission to the bar, and if they are not doing it they are derelict in their duty.

I say there are men in this room at this time as high-minded and honorable citizens of this state as it has been my pleasure to come in contact with. It has not been my experience, Mr. President, although my experience at the bar has been somewhat limited, that there are many of the other kind. The average lawyer that I practice law with is a gentleman, he is a man of integrity, he is a man of high moral character and standing in the community, and the average man that I practice law with is fit to practice law. The average lawyer

that I practice with compares with any test that this organization might impose.

I don't see what is to be gained by this proposition. There are rascals in every profession, and there are crooks and rogues in every line of endeavor. You cannot weed them out of the bar. Mr. President and members of the Association, they don't find out the rascals in the legal profession when they aspire for admission to the bar. They are never discovered until after they have been practicing for some years and have had a chance to perpetrate some of their rascality. If they do that now they will do it under the proposed plan, and if they put it over the Supreme Court now they would put it over the Bar Association. I do not believe that will relieve the situation.

We have the machinery in our hands at this time to kick out any undesirable member of the profession. Any man who does not conduct his practice along a high moral plane, any man who does not turn over his client's money to him, and all those things, can be handled with the machinery and the power we now have. It rests in the State Attorney or the lawyers or the courts' hands. How are we going to accomplish any more through the medium of a corporation than we can through the machinery we now have? I have seen in my short practice but one case where I can say that on the evidence as I understood it, a lawyer ought to be disbarred. Mr. President and gentlemen of this Association, he was disbarred. I have seen but that one case, where if I was sitting as judge and jury or committee or anything else that had the power resting upon it, that I could say that that man ought to be disbarred. That is the one and only case that has come to my attention, and he was disbarred. The state attorney did his duty and the circuit judge did his duty, and the incorporation of the bar could have done no more. He was kicked out and he cannot practice law any more.

Now, Mr. President and gentlemen of this Association, if we organize a corporation we sew ourselves body and souls into a compulsory incorporation, and we have not helped our standing with the great mass of the people. They think it is a device the lawyers have resorted to to combine and put over their methods to charge bigger fees. That impression prevails enough now, and I don't want to do anything to make it more so. We all have our friends among the laymen, our clients among the laymen, and we can't do anything

that would shake that confidence, we can't afford to. And I want to say in conclusion while we might be criticized, while some might say I am not willing to elevate the standards of the bar, I deny that, but I am taking this position that I refuse to let a rascal or rogue in the legal profession, and there are some in all professions. I don't know how a committee or a corporation could do any more than the court can, and I am not going to let the rogues and rascals set my standard for me, and I am not going to let any committee or corporation set it for me. I am going to set my own standard, and I am going to undertake to live up to it to the very best of my ability, and I think a lawyer trying to elevate the standard of his profession can do so better by living an honest, upright life than by organization.

MR. PRICE: I did not know the measure at the last Legislature is to be introduced here for consideration by this Association, or has it already been passed upon by the Bar Association?

THE PRESIDENT: It was endorsed at the last meeting of the State Bar Association and failed to get through by reason of its having failed to reach a vote in the House, and the question is shall it be introduced at the next session and shall we undertake to put it through the next session of the Legislature. As the President of this Association, having had that matter submitted to me, I appointed a committee. Having failed to get it through, as instructed, I recommend that we consider it at this session, and determine whether or not it should be passed through the next Legislature, and in doing so I recommend that it should be passed.

MR. KAY: I think the gentleman that followed me misapprehended the question. I saw where the discussion was going to come on tomorrow. I stated I would not be able to be here. I made my thoughts as clear as I could here today because I would not be present tomorrow to express them. I will say for the information of all that not only was the bar bill sent to every member of the Florida Bar Association, but it was sent to every known member of the bar in the State of Florida, so that each could be apprised of the contents of the measure, and what was sought to be accomplished by the proposed legislation.

Now, if it does not take too much time I would like a few minutes to respond to some of the thoughts that Mr. Anderson so well put forth.

MR. PRICE: If there is to be a discussion on it I think it would be well to have it read, and I move you, sir, that the Secretary read the provisions of this proposed bill so that we may know the terms and conditions and be in position to discuss it.

MR. MAY: Before it is read, if it is going to be read, I think Colonel Kay has some remarks he wants to make which I think we all would like to hear.

MR. PRICE: Of course this discussion is supposed to be helpful and not to shut off anybody's views, whether they agree or not. If the need of light is inherent, and it can only be supplied by a reading of the bill, then let the bill be read, so far as I am concerned.

THE PRESIDENT: The Secretary, then, will read if you desire.

The Secretary thereupon read the proposed bill. (See Appendix, page 166.)

MR. KAY: It seems to me, Mr. President, that the gentleman who replied to me thought more of a political side of the question than the merits of the bill itself.

The Supreme Court of the State of Florida, or certainly some members of it, recognize that the existing system should be improved and changed. I submit, Mr. President, that it has always been the function of the bar to raise its voice when the administration by the courts does not satisfy it, and to ask for relief through legislation against what it deem abuses, and I cannot understand that the lawyers of the State of Florida have given up that right.

It may be said that the question of rascality never arises until after a man has gone to the bar. Mr. President, there is much of force in that statement, but an ounce of prevention is worth a pound of cure.

Under this measure, properly administered, there will be such scrutiny into the fitness of the applicant as to place upon those making the scrutiny a judgment which it would be safe to follow. Men do not turn rascals over night. If a man by his experience, his raising, his habits, his conduct, his intellect and otherwise demonstrates his fitness to receive a membership in the state bar, it is exceedingly doubtful if after he becomes a lawyer that association with reputable lawyers is going to make him a rascal, and I deny it. It is true that this measure will place upon those appointed by the Gov-

error, upon the recommendation of the bar, a very serious responsibility and a high order of duty, but when in the history of this profession have lawyers shirked a duty? The word duty is the guiding star in their footsteps, and sacrifice is often the keynote of the legal profession.

There are many sections to this act. This act was not written over night. It was debated long before the measure was framed. The President, Judge Reeves, and the Executive Council had several sessions. They went into it then as I am asking you now to go into it as a measure of relief and of betterment. You gentlemen who were at the Jacksonville meeting last year will recall that there was hardly a line in the measure that was not scrutinized and attacked. You will recall both in the day session and the night session and the following day session no other business was transacted but the careful consideration of this measure, where able lawyers, differing in thought as well as you, some seeking to have the measure adopted and others, as they had a right to do, objecting to it, gave faithfully their time and their thoughts, and finally it was clarified in a measure that was thought would meet the objections of most, if not of all, of those that opposed it. It was then the hope that the measure would receive the approval of the Florida Legislature. It passed in one house and failed in the other.

What in this bill is there to which proper objection can be made? Is there anything wrong in saying to every lawyer in the State of Florida, you are a part of a united bar? Is there any criticism in saying, "Come in under this system that your bretheren of the bar have so seriously debated and undertaken as a betterment measure?" Surely no reputable lawyer will object to becoming a part of the solidified whole, marching together, shoulder to shoulder, for the betterment of his own profession.

It may be said, as the gentleman says, that the criticism will go up that the lawyers have formed a trust to raise their fees and otherwise encroach upon the people. It is no new thing that people criticise the lawyers, and I take it that Mr. Anderson is a member of the Jacksonville Bar Association, are you not, Mr. Anderson?

MR. ANDERSON: Yes, sir.

MR. KAY: You subscribe to its rules?

MR. ANDERSON: Yes, sir.

MR. KAY: And its fee bill, do you not?

MR. ANDERSON: Yes, sir.

MR. KAY: And that fee bill fixes the price to everybody. Where, then, does his argument come in? Should a member of one of the bar associations of the state, which has a fixed scale of fees say it shall be good for one place and bad for another? I think uniformity of lawyers' fees is very desirable. I think the client ought to know in advance what he is going to be charged, and I think any lawyer who will evade the inquiry of the client as to what his charge will be and is ashamed to show him the fee bill that regulates his conduct, or without the fee bill cannot justify his charge to his client, ought to drop the charge. Although I have practiced law for forty years I have never had a lawsuit about a fee and never will.

Now, I submit that the objections to this measure, gentlemen, are not well taken. If you are going to refrain from marching on with this, because of these criticisms, gentlemen of this Association, you will fail in my opinion in doing that constructive work that is up to you to do and perform as a duty if not a pleasure.

MR. MAY: I move you, sir, that the discussion on this question be held over until tomorrow, and that we now adjourn.

The motion was seconded and the session stood adjourned until the following day.

Morning Session

JUNE 16TH

Pursuant to adjournment the meeting reconvened at 10:00 A. M. at the Rosalind Club.

The following new members were elected:

JOHN S. CADEL, Kissimmee.

M. L. MERSHON, Miami.

W. D. BELL, Arcadia.

THE PRESIDENT: We are quite certain that Judge Clayton will be here this afternoon, and will speak about 4 o'clock. This, gentlemen, is what the Executive Council saw fit to designate as Professional Day; yesterday was Centennial Day. Those who got up the program hope that you enjoyed yesterday's program. Today is Professional Day, and ought to appeal to the heart of every man who is practicing law, and I know it will.

Along some time in December I had a letter, and later a telegram from the President of the American Bar Association, asking that three distinguished men of this state, noted in the profession of law, be designated as delegates to attend the Washington Conference on Legal Education and Admission. That, gentlemen, had been considered by me as the most important conference that has ever been held in this country in behalf or for the members of the legal profession of the United States. You perhaps remember reading in the papers of the great body of men who attended that conference. I had to look around for men to fill the bill, and men who were willing to perform a labor of love for their profession. I found three men who were willing to go and pay their own expenses to help elevate and bring any information they could for the benefit of the legal profession of Florida. The leader or chairman of that commission was our own Justice W. H. Ellis of the Supreme Court of Florida, and he will now deliver an address to you upon that subject.

JUDGE W. H. ELLIS: Mr. President and members of the Bar Association of Florida, ladies and gentlemen:

The subject to which the President alluded is a great subject; it is one phase of a still greater subject, and that is the relation of the bar to society. That a distinct duty devolves and rests upon the

bar of every state towards society no one can dispute. The character of a lawyer's business brings him necessarily into every human activity; the character of that activity makes no difference so far as the requirements of his services are concerned. If a preacher wants to organize some charitable work in a community that requires some financiering, the acquisition of some property, he seeks the advice of counsel; if a banker wants to establish a bank in a community, he seeks the advice of counsel; if the people want to build up a community and obtain a charter for a city government, they seek the advice of counsel. In any activity whatsoever known the services of a lawyer are required. Even in domestic relations, the most intimate relation that exists between man and woman, if a division must arise between them, they each seek counsel, and they pour into the ears of that counsel the most intimate relations that have existed between them. He is taken, as it were, into the very breast of the home, and the lawyer says that when he is called upon to perform any function he ought at least to be a man of the very highest integrity first, and he ought to be qualified to advise as to the rights of the respective parties. Advise them intelligently and well, to the end that the peace, the happiness, the prosperity of the community may be promoted.

The Government is divided according to our system into three branches, there is the legislative, the executive, the judicial.

The Constitution, the organic law upon which rests the rights of the people, specifically recognizes one class of human being in the community, and that class is the lawyer class.

The Government in order to recruit its officers of one branch looks to one class of citizens to build it up, and that class is the lawyer class.

The Legislature may be composed of doctors and merchants and bankers and farmers and lawyers and everybody. The executive branch may be. But the judicial branch must be composed of men learned in the law. That is the theory. As to how it works out in practice, I know what the thought is. It has ever been the same. It was recognized in the old days, and according to the jokes of some attorneys the impression of the intellectuality of the judiciary was so low that due allowance was made for the weakness of human nature and a rule was made to the effect that after an adverse decision a lawyer was given twenty-four hours to cuss the court, but after that it was contempt!

The subject is so big, and I so incompetent, that it would be a waste of effort on my part and probably a waste of your patience to undertake to discuss it in one or two even of its phases. Yesterday I listened to the argument pro and con upon this bill that the bar of Florida proposes as a means to an end.

The proposition of that bill is merely a suggestion of one way, one means to accomplish the great big purpose, and that great big purpose is this: It is the duty of the bar, an obligation that it owes to society, to see to it that the people shall regard a certificate to practice law in a lawyer's office issued under the authority of the State of Florida, as a certificate of honor, and not a mere license to exploit the people of this country and their industries in the name of law. That obligation rests upon the bar, and it rests upon no one else, and I don't care how you go about reaching it. I don't care whether it is in the form of a bill, like this, or in the form of resolutions adopted by the bar pledging themselves to the standard. I say, gentlemen, in the name of the heavens, let's go on record that so far as the bar of Florida is concerned she is absolutely and irrevocably committed to the doctrine that her lawyers shall be men! That is what we want to do.

I heard my friend Garrett yesterday talking about this bill "having teeth in it." Teeth in it! What did he mean by that? Is it possible that my friends could have had the suspicion that anyone of his associates had concocted a scheme for the purpose of humiliating or degrading him or any member of this profession? If such was his thought, it did not spring from the heart of my friend, but it was, as Mr. Root said, merely the reaction of a mind against the proposition of having anybody interfere with what he wants to do.

A gentleman over here talked about trusts; talked about the bar organizing a union labor society. How can he possibly see in a measure which simply provides: "Here is your standard, which is your obligation. In the name of your duty to society live up to it;" how can he see in that any effort on the part of the bar composed, as he admitted, of gentlemen of honor and integrity, a little scheme for the purpose of exploiting humanity to the selfish interests and financial aggrandizement of the members of the profession? I could not see his point of view. I cannot believe that that was the real thought. And did he mean to dishonor or discredit the movement by simply saying it was a labor organization? You cannot discredit a move-

ment of any body of men by likening it to a labor organization. You rather compliment it when you use the illustration, because I tell you, gentlemen, that the labor organizations of this country are loyal citizens of this government. The war demonstrated it, when their sons went to the front. They know what they want, and they are going to obtain it in a legitimate way, if possible. Can so much be said of the bar as an organization? Does the bar know what it wants, and has it made any effort to realize those wants? And what are those wants, or what should they be?

Nothing under the sun but the desire to so function that the social, civic and industrial life of the community may be always in the hands of men of honor and ability, and to accomplish that end there can be no selfish purpose in it at all. Of course, labor organizations are misled, designing men get into control, they announce doctrines that are inimical to the best interests of the country. We hear that side of it. But what labor seeks, the fundamental thought that pervades their organization, is that in the adjustment of relations, or readjustment, society must be adjusted upon such grounds and on such terms as will make for the better welfare of all people in society, or expressed in a more general phrase, they want a more perfect adjustment of the differences between capital and labor.

One of the greatest histories that have been written since the war that I know anything about is Wells' Outline of History. He confidently makes the prediction that society is undergoing a transformation fundamentally to this extent, that there will be and must come between all peoples of society a more perfect adjustment of their relations and a more equal distribution of the profits of their activities. How it is going to be accomplished God only knows. No Moses yet has appeared to lead the people out of that wilderness, but he will eventually, and when he does you are going to find capital endorsing it and standing for it because capital will realize that the happiness and prosperity of men is going to depend upon the joint efforts of intelligence and labor, and that is the way the highest good to humanity is going to be realized. But I did not intend to say all that.

The President honored me with the appointment, as he stated, to this conference. I attended in company with the gentlemen whom he named, and then I was requested to read a paper as to what was accomplished at that conference. This subject, to which I have referred here, was, of course, the subject which engaged the attention

of those people there. They discussed it and they discussed it, of course, ably, and I will undertake to give you in substance what they said and what the sentiment and thought of that body of men was.

Judge Ellis then delivered his address. (See Appendix, page 119.)

THE PRESIDENT: Gentlemen of the bar, I have been requested to announce that if there are any Kiwanians present, that they have been invited by the local club to be at the San Juan Hotel at 12:30 for their luncheon.

In the committee that went to the Washington conference there were two other gentlemen who performed similar service. One was a man who has always been performing services for the bar of this state, Hon. William Hunter, of Tampa. We looked about over the state, we wanted institutions represented, our university, the state university, because in the letter received from the American Bar Association it was suggested that the university of the state be represented. Judge Cockrell could not go, but a member of the Board of Control went, John C. Cooper, of Jacksonville.

We have asked the gentleman who shall speak to you next to prepare a paper or address on the question of the Efficiency of the Law School in the Training for the Legal Profession. The man whom we have asked is the gentleman who has those Florida boys in charge at Gainesville. He is a man who has practiced law, he has held the highest position that a man can hold in this state, except possibly he has not been chief justice, but he has been justice of the Supreme Court, and if there is any man who can speak upon that subject it is Hon. R. S. Cockrell, who will now address you.

Mr. Cockrell then delivered his address. (See Appendix, page 134.)

THE PRESIDENT: I know you have been elevated and educated by the address of Judge Cockrell. You have probably learned that the requirements the American Bar Association have laid down, and of which Judge Ellis spoke, have already been put into operation in Florida. We ought to feel proud of that.

We are to have an address on Common Law Pleading after the noon hour. I remember when I was admitted to the bar I had the worst headache I ever had when I got through, and there is one gen-

tleman present who helped conduct that examination. They absolutely showed no mercy. I remember the five hours and a half that they put me through the grill—one or two ex-justices of the Supreme Court, yes, two of them and two of them just out of a fine law school, University of Virginia and Georgetown, and another gentleman who is present. Judge Liddon had just revised the statutes of this state, and that was his subject, and I did not have the courage to tell him about the old joke that they could repeal everything he had asked me about up at Tallahassee in twenty-four hours! He did not seem to believe that, but I will never forget what Judge Carter told me—he was the partner of W. A. Blount when he died. Judge Carter was on the bench. He opposed my being admitted. He gave me the best lecture I ever had in about three minutes. He came down and sat down by me and said he was not in favor of admitting me. He said, "I believe in you and I want to see you get in there right. You are deficient on common law pleading as applicable to our statutes." It is the most important study; almost anybody can try a case or argue a demurrer, but, gentlemen, it takes a lawyer to draw a pleading! We are going to have something along that line by, I won't say the *best authority* (audience says "say it") yes, I will say it, the best authority that can be found in this country, Louis C. Massey.

Thereupon the meeting adjourned until 2:30 P. M.

Afternoon Session

JUNE 16TH

The Association was called to order, pursuant to adjournment, at 2:30 P. M. in the Rosalind Club.

The following new members were elected:

MR. DON REGISTER, Winter Haven, Fla.

MR. N. MCK. HEATH, Miami, Fla.

THE PRESIDENT: As I stated before the noon hour, this is one subject that is always interesting. It comes very strongly to the minds and conscience, especially of the young attorney, and I have understood—and I have talked to some of the older attorneys—that pleading will always be a subject of importance no matter how long you live or how long you practice. It is a matter of pursuit, something that can never be entirely possessed. It has no place where you can say you have accomplished it. Genius of lawyers will forever and forever continue along that particular branch of the practice. I take pleasure in introducing Hon. L. C. Massey, who will address you on that subject.

MR. L. C. MASSEY: The President this morning said something that is a mistake about my being authority on common law pleading and practice. I lay no claim to any such title, nor do I know of anybody in this state that could lay claim justly to being an absolute authority on that subject under present conditions of the practice of pleadings in this state. In spite of the criticism which I shall make in the paper which I am about to read to you, and which I promise will be short, I believe that in theory we have the best system of practice and pleading that I have yet seen. I know of no better and I think it needs but little improvement. I am sorry to say that the practice under it by no means corresponds generally with the theory. That is due to various causes in my opinion, and I have given this matter considerable thought. In the first place, as I shall point out to you, there are some defects in the statutes under which we operate; in the second place, there is a certain amount of carelessness on the part of the lawyer who feels he is in possession of the facts of the case, wants to get them down, wants to get them before a jury, and third, there is the advent of lawyers among us from code

states who never seem to thoroughly assimilate our practice. But in spite of all that, I think, as I say, that we have as good a system, with a few corrections, as can be devised and, yet, when I look sometimes at a pleading as I do frequently, which contains eight or ten counts in a declaration with anywhere from forty to sixty pages in the pleading, and I see pleas covering multitudes of issues all in the same plea, and such like, I wonder if the gentleman who drew those pleadings ever had their attention called to the section of the statutes which requires that the substance shall be expressed without prolixity.

Now, with those introductory remarks, I shall proceed to read a short paper which embodies the statutory infringement on common law pleading.

Mr. Massey thereupon read his address. (See Appendix, page 139.)

MR. ARMSTEAD BROWN: I move that a committee of three be appointed to draft a bill, of which Judge Massey ought to be a member, embracing the suggestions which he makes, which I believe would get the approval of the members of the bar and endeavor to get it adopted at the next Legislature.

Motion seconded and carried.

THE PRESIDENT: This committee probably should not reside too far apart, as we have found in putting them too far apart in the state it is inconvenient for them to get together. I think it a good idea to group all committees, so they would be in the same locality. I will appoint Armstead Brown, L. C. Massey and—

MR. JOHN L'ENGLE: I suggest that Mr. R. S. Cockrell be placed upon the committee.

THE PRESIDENT: That is an excellent suggestion. I appoint Judge Cockrell as the third member of the committee. This concludes, so far as the general papers are concerned, the matters prepared for this occasion. We have one address by Judge Clayton, who will be here on the 4 o'clock train. Mr. Ed W. Davis, President of the Local Bar Association, and Mr. Emmett Saffay of the Jacksonville Bar are requested to meet Judge Clayton and to accompany him up to the meeting.

Pending this, we come to miscellaneous business.

MR. L. R. RAILY: Mr. President, this matter of the proposed legislative bill went over from yesterday and was to be discussed this afternoon?

THE PRESIDENT: Yes, sir.

MR. RAILY: I do not know that this matter was ever formally before the house yesterday afternoon. It was discussed considerably, but my recollection is it was discussed without any resolution being made, so in order to get it before the house I move that a committee of three be appointed by the chair to present at the next session of the Legislature this proposed bill regulating the practice of law with recommendation for its passage.

MR. JOE JONES: Second the motion.

MR. O. K. REAVES: Mr. President, I would like to make this suggestion. Don't you think it would be better to refer that to the incoming President and incoming council with instructions that every reasonable and legitimate means be used to have the bill enacted at the next session of the Legislature?

MR. RAILY: I have no objections to putting it in that way. My suggestion is to have the incoming officers know that it was the desire of this Association at this time to have the bill passed. I will change that and say, "that it be referred to the incoming Executive Committee with instructions that every reasonable and legitimate means be used to have the bill enacted at the next session of the Legislature."

Motion seconded and carried.

MR. W. H. PRICE: I would like to amend that by adding "that the incoming President be given the authority to appoint a committee of not less than three persons to attend the next session of the Legislature at Tallahassee, if necessary."

Amendment accepted and motion carried.

MR. ARMSTEAD BROWN: I move the motion be reconsidered. I want to explain my vote. I think it would be a bad parliamentary practice for us to reconsider this, but I would like to hear Mr. Raily's prepared speech.

MR. RAILY: I have no prepared speech.

MR. ARMSTEAD BROWN: I want to say I would like to have that reconsidered so that if there are any here who have any objection in their mind to that bill we might get as nearly the unanimous support if possible. I think there was some misapprehension yesterday. My friend, Mr. Anderson, from Jacksonville, while I disagreed with his conclusion, I think every man here will agree with me, even including Judge Ellis, who was opposed to his conclusion, that Mr. Anderson made a very brilliant argument for the position which he held. I think we all admire independence and self reliance, and Mr. Anderson had just as much right to his views on that subject, and Mr. Garrett two years ago had just as much right to his opinion, even though in the minority, as Judge Ellis did in taking the position he did in Washington the other day, in the resolution which he introduced, and which no doubt would meet the approval of most of the lawyers of this state, although he was in the minority.

Now, as to my position in this matter, when this matter came up two years ago, Mr. Garrett and several made moves to amend, and it was debated for about a day and a half. I voted for some of the motions to amend and when the bill was amended to its present shape I voted for it, and for the vote of the committee which embraced it, and when I went home to Miami three or four days later, it happened that we had a meeting of the local Bar Association, and I explained the situation, the fight we had had over it, and after arguing the matter, our local bar almost unanimously voted in favor of the bill, and requested our local representative, who was a member of the Bar Association, to vote for it, which he did. If there are any here who have any sincere doubts about the validity of the bill now, why I would be glad for them to get an opportunity to voice their opinion and discuss the matter further. That is the only reason I made the motion to reconsider, for I am heartily in favor. My record is the same now it was two years ago, when debated and formulated by our meeting in Jacksonville.

THE PRESIDENT: Pardon a personal expression, but the best way in the world to get at the very heart of things is to hear both sides of it. I like to see any matter which there is any doubt about attacked from both sides. This has been attacked from both sides, and by so doing I think we have been educated. If we are broader than other professions that is the way we get it, by having it pounded into us.

MR. A. AKERMAN: I know it is entirely out of parliamentary procedure, but I beg leave to call attention to what I concede to be a defect in that bill, not for the purpose of advocating or attacking it. It was stated here yesterday by Mr. Kay, in announcing the proposals of the bill that the license would only be \$25.00, and it would be entirely relieved of municipal taxation. I cannot speak for the rest of the state, but, as far as Orlando is concerned, the passage of this bill under a recent decision of Judge Andrews, which was affirmed by the Supreme Court, would not prevent the city of Orlando from charging a license tax to attorneys in any sum the city saw fit.

THE PRESIDENT: I will have to state that is good law. This bill was not to keep a license tax of a municipal corporation being put on you.

There is one defect in the bill which we noted when we drafted the bill for the Legislature. It provided for a certain number of Board of Governors—puts a limit of nine and then says there shall be two appointed from each Congressional district.

A VOICE: And one at large.

THE PRESIDENT: If you will dig up the old bill you will find we made a change to make it workable, in the event another district is created, but none that would change the purport of the measure.

MR. G. E. WALKER: I would like to know who were the committee that drafted this bill. I want to obtain some information about the bill. What I might ask here, it seems a little doubtful in my mind as to the real nature. The bill states that on being admitted to the bar you automatically become a member of the Association, if I am not mistaken. I have got it in my mind in some manner that there were two organizations, and I could not keep them separated. It looks to me like the bill is a little weak in eliminating the school graduates from having to pass this examination. I am a graduate myself from the University of Florida, but I think they ought to be put through. I know I was not qualified to practice law, I learned the theory, and all that, but I did not know the everyday working features, and I think a person ought to be required to have a certain amount of all this experience before they are admitted to practice law.

THE PRESIDENT: That will probably come, and I think it will; this is an entering wedge, so we can lay our lines and build upon it. Gentlemen, the chair is subject to your pleasure.

MR. R. A. HENDERSON: I have to offer the following resolution:

WHEREAS it is the unanimous opinion of the members of Florida State Bar Association that to better accomplish the objects for which the Association exists, that all members of the bar should attend upon its conventions, and

WHEREAS many attorneys are annually prevented from attendance by virtue of the holding of courts in the state at such time;

THEREFORE, BE IT RESOLVED, That the judges of all Florida courts be respectfully requested, except in cases of emergency, to suspend their respective courts during the period of the annual conventions of this Association.

THE SECRETARY: Mr. President, I do not see the need of that resolution, nor do I see the good of sending it around when the next convention is a year off, and we do not know the dates when it will be held. Thirty days prior to this convention, letters were sent to all circuit judges and the Supreme Court, telling them of the importance of this convention, and our desire to have as many of the attorneys present as possible. The Supreme Court and a number of the circuit judges very kindly adjourned their courts. Some circuit judges flatly refused. Others explained that the condition of their dockets was such that they did not think it fair to their litigants to adjourn, when only three or four attorneys would be restrained from attending on account of the non-adjournment. I am sure the Secretary each year will be willing to carry out that practice, and I think you will have more success by waiting until about thirty days before the convention and sending out the letters to the circuit judges and the Supreme Court, than to pass a resolution to this effect.

MR. HENDERSON: I submit the resolution passed by this convention, sent to all the judges of the Florida courts, would have even greater weight than that of the Secretary writing thirty days before the Association at the request of the Executive Council. The resolution contemplates emergencies that might arise, but the moral suasion of such a resolution brought before the circuit judges and the Supreme Court at this time would naturally increase the attendance at this Association and make the matters that are brought up actually of more weight by virtue of the fact that the lawyers can plan and

be reasonably assured that no courts would be in session and could make their plans to be here.

MR. W. W. CLARK: I appreciate the importance of the attendance of as many lawyers as possible, and, frankly, I feel very much as Mr. Henderson does. I would be very glad if some arrangement could be made by this Association of that matter, so that we could feel we had not laid ourselves open to criticism, but I am opposed to the passage of this resolution for several reasons. We have the laymen to deal with, as well as the lawyers and there are a good many more of them than there are lawyers and judges, and I fear they do not fully appreciate the importance of these meetings. I am just from a circuit where we have had a contest over the judgeship and I happen to know the judges are being very severely criticised by the laymen on account of alleged delays and alleged recesses, and alleged adjournments of terms of court. They claim that the judges in many instances go ahead and take these backwoods counties like the one I came from and have jurors subpoenaed in there for a week and then come and organize court and take a recess, and those jurors are there at the expense of the people. I certainly know in West Florida there has been much criticism on adjournment for two days at a time. Now we lawyers know the necessity of those adjournments, but, in view of the fact that that criticism now is already being made and in view of the fact that after all it is the laymen's case that is being tried in these courts, and after all it is largely the laymen who are paying these expenses, I think it would be an unwise move.

I am afraid they would not understand the matter as we do, and, therefore, I hope this Association will not adopt this resolution.

THE PRESIDENT: Gentlemen, you have heard the resolution.

Thereupon the resolution was adopted.

MR. G. P. GARRETT: I would like to hear this resolution I am going to offer discussed, and I would like to open the discussion. I would like to say further that before offering this resolution I consulted one of the speakers here who is on the Supreme Court and had his opinion off-hand, I think I did, that it was not a breach of propriety to offer it. I can't see that it would be, but in view of my friendship for the court, I would hate for it to be.

BE IT RESOLVED, by the State Bar Association of Florida, That it is the sense of this body that the practice of appellate courts to render decisions without opinion tends to confusion and uncertainty in the determination of the law and to the promotion of unnecessary litigation, and should be confined within the narrowest practicable limits.

The theory upon which the practice of rendering per curiam opinions seems to go is that the matter involved in the appeal is one which has already been ruled upon by the court in some prior case, or is of such trifling importance as not to demand consideration by the Supreme Court. It is a theory which has been accepted by the Supreme Court of the United States. I fully realize that the Supreme Court of Florida in rendering many of its decisions without an opinion is but following in the footsteps of the Supreme Court of the United States. If in doing so the Supreme Court adheres faithfully to the theory I have mentioned, probably the practice would not be subject to condemnation. However, I do not think that the courts do follow the idea of the theory. I have noticed, for instance, one or more per curiam decisions where a ruling of a lower court has been reversed, and one such decision made by the Supreme Court of the State of Florida, in which there has been a dissent. Now, if the case presented on appeal were so simple as not to require the consideration of the Supreme Court, or is ruled by a case already decided, it does not seem that there should be any dissent on the part of any of the judges. The dissent means that the judges are not of one mind, and if the Supreme Court is divided in the matter of any case, that case sufficiently demands an opinion. Again, in the case of a reversal without opinion the lower court is wholly unable to decide what its future course in the litigation should be. That, as a matter of fact, is the gist of my complaint, that per curiam decisions do not guide the lower court or determine the points of law involved, so that the entire bar may understand the same. The lawyers in the case and the judge before whom the case was decided know what the records show, and this becomes a law for them in the matter of future decisions, but the bar as a whole is ignorant of the matters before the court, and is unable intelligently to advise its clients on points which have already had the consideration of the Supreme Court. Thus the law as understood in one circuit is different from the law as understood in another. This tends to uncertainty in the

determination of the law and to the promotion of litigation. It is true that opinions should be reduced in their length, and matters set out as succinctly as possible, but no case is of any value unless the facts and the reasoning as well as the actual decision are made known to the public.

I again apologize for anything that might appear like a criticism of the court, for I bow to it with worship and reverence.

MR. A. AKERMAN: I beg to differ and speak just a word on behalf of this question. I apprehend the reason why the Supreme Court hands down those opinions is two-fold: first, the point raised does not justify discussion; and the other is, the stress of business and press upon the court in attempting to reasonably keep up with the work before them. I think it a good deal better to have the decision come quickly and get rid of it than to know why. I am not troubled to know at all what hit me in the back. In fact, I knew where they were going to hit me before they did hit me! I don't think we ought to work to the interests of West Publishing Company—it keeps me busy with what they do write.

MR. E. P. AXTELL: It seems to me the Supreme Court is between the devil and the deep blue sea. We propose now to criticise them because they do not write opinions. It has not been long since we criticised them because they did render these decisions. I have no doubt if the judges of the Supreme Court can do so and despatch business they are perfectly willing and anxious to write opinions in all cases, but rather than have the dockets congested as they have in past been congested, in the wisdom of the court they prefer to despatch business rather than write opinions.

THE PRESIDENT: I assume those who belong to the Bar Association have read Justice Clark's address before the Bar Association of New York. There is a lot of information in it on that very subject, very much to the point.

MR. JOHN E. HARTRIDGE: It seems to me in the adoption of this resolution we are taking a step backwards. There was a time when justices of the Supreme Court of this state were compelled to write opinions in all cases. They got relief from what they considered a great burden, through, as I recall, a legislative enactment doing away with that requirement, and allowing them if they thought the case was one that did not demand an opinion to merely act what we commonly call per curiam and direct a per curiam opinion.

Now we are seeking to retrace our steps and do away with the act of the Legislature, and are going back to a time prior thereto, and compel the court to write opinions in cases whether they are important or unimportant, whether the principal involved may have been decided in other cases or not.

MR. J. M. PEELER: I want to say this in regard to this resolution. There has been throughout this country a great hue and cry for speeding up a trial, and court work, and I think if anything retards the speeding up of cases it should not be put in the way. Now sometimes they do reverse a case, and do not write an opinion. I know I have had that happen once, but I think that matter should be left to the judges, wherever the principal involved they think needs an opinion and when not to. For that reason that should be left with the judges, and they use their own discretion when to write an opinion and when not to, and for that reason I am opposed to that resolution.

Thereupon a vote was taken and the motion was lost.

MR. E. P. AXTELL: I think there was a matter that the President of the Duval County Bar Association asked to be brought before the body.

THE PRESIDENT: State that over, Mr. Axtell.

MR. AXTELL: I understand there was a telegram from the Duval County Bar Association asking that this Association take action upon the matter of there being a constitutional amendment providing for additional circuit judges in the Fourth judicial circuit.

THE SECRETARY: I find on the table a telegram addressed to Col. W. E. Kay as follows:

JACKSONVILLE, FLA., 3:18 P. M., June 15, 1922.

COL. W. E. KAY,
Care Judge C. O. Andrews,
Orlando, Fla.

Please call upon State Association to assist us in passing constitutional amendment allowing additional circuit judges and explain to them our dire need of relief here.

AUSTIN MILLER,
President Jacksonville Bar Association.

MR. DON REGISTER: I think it would be well for the delegation from Jacksonville to express to the members from the other parts of the state that the expenses of this extra judge would be defrayed by

Duval County, and I understand in asking for this additional circuit for the Fourth circuit no additional expense is placed upon the state.

MR. L. R. RILEY: As I understand it, there is a constitutional amendment to be voted on in the November election and that does not apply specifically to Duval County, but applies to any circuit having seventy-five thousand inhabitants, that is my recollection of the matter. I don't think it is a local proposition.

MR. AXTELL: I think that the proposition that is referred to by the telegram was to ask the lawyers here to bring the effect of their influence, if they felt so inclined, in favor of the bill. As I understand the situation at the present time it would only apply to the Fourth judicial circuit. How soon it would apply to other circuits no one could say. I presume that probably most of the lawyers here know something of the situation of the court in Duval County. We have there now two circuit judges. Our circuit court adjourns on Saturday night before the beginning of the next term and opens again on Monday morning in the new term; in other words, the circuit court of Duval County is in session throughout the year, and still the two judges are unable to keep up with the work in that circuit. Judge Gibbs is the judge of the Fourth circuit and Judge Simmons the circuit judge only for Duval County. Judge Gibbs' time for about four months in the year is given to other counties in the circuit, so that for four months in the year at least Duval County has but one circuit judge. If I understand the object of the telegram it is to have this Association, if it thinks proper, make a resolution adopting that amendment, or at least that the members of the Association may take some interest in trying to procure the passage of the amendment.

MR. W. H. PRICE: I move that this body heartily endorse the amendment which will be voted on at the next election, and that each member use his utmost influence towards the passage of that amendment.

MR. JOHN E. HARTRIDGE: I might add that at the calling of the spring docket in Duval County there was sufficient number of cases announced ready on both sides for trial to occupy the court for two years sitting six days in the week.

THE PRESIDENT: I believe our present Constitution provides that they can make a new circuit of some of your counties and help

you that way. Still with that, I do not suppose you would have the relief necessary.

The motion was thereupon put to a vote and carried.

MR. ARMSTEAD BROWN: I want to introduce the resolution that this Association instruct the Secretary to print in the proceedings of this session of the convention all of the addresses and papers which have been delivered by the gentlemen on the program, and also that the full stenographic proceedings be reported, so that these resolutions which have been adopted, including the one which was just adopted, will go to the members throughout the state so that the members of the bar will have before them the request just made. Mr. Henderson suggests that I embrace in this motion that the proceedings also print in full the act which was introduced at the last Legislature, which was a matter of discussion yesterday and today, so that the lawyers throughout the state will have again brought before them the provisions of this proposed act.

THE PRESIDENT: Gentlemen, we want to make the Bar Association as much worth while as possible, and we have had papers read here, the contents of which cannot be had anywhere. They have been prepared through depths of research, and I would like to say as long as this is the centennial year, and what we might call a professional session, I would like to see those addresses when the minutes are printed, those particular addresses, edited by the President, or the Executive Council, with the proper introductory, have them printed in book form, indexed and bound, so that any lawyer hereafter can tell whose opinions he is reading and what Governors have served, and a history of our profession in this state. I want to see that done, and if necessary let the lawyers pay for that book, in order to cover the expense of its publication. The young lawyer needs it, the university needs it, the lawyer who comes to live with us from other states needs it, and all of us need to keep and know something of the men who have preceded us in the profession and who have been the men who have made this state what it is. I had that in mind, and I would like to hear a motion to discuss that when I put this motion.

MR. ARMSTEAD BROWN: Just a word. This motion carried with it the idea of printing all these things in the minutes, rather than go to the expense of printing it twice. I have seen this done in

the Alabama Association, when the papers at any session are of great value as they have been at this session, they would have the minutes printed and bound in cloth, making it a permanent book. In that way you have not only the minutes, but these splendid addresses in book form, and it does not cost so very much more, and it would be less expensive than printing them twice.

MR. JOHN E. HARTRIDGE: I want to further the remarks made. I think the papers read here of Judge Whitfield, of Mr. Fleming and Mr. Dewhurst are contributions to the history of this state and the literature of this state; that they are literature and learning that would require years of study and research, and the browsing through, if not going deeper, of so many books that they ought to be by legislative enactment put into book form and compelled to be taught in the public schools of this state. The children then of this state, growing up, would get a history of the State of Florida, in connection with its executives and with its judiciary, and with the change of flags in this that they cannot get elsewhere, and the large majority of them would forever remain ignorant of these things if they were left to their own activities and their own research. I am inclined to the view that this Association would not go far amiss to by resolution request that the Legislature have those papers put in pamphlet form, or some enduring form, and they be taught in the schools of this state.

MR. R. A. HENDERSON: The suggestion of Mr. Hartridge seems a particular happy one, especially since our income is not one that would permit carrying out the President's idea, and having these put out in bound form. If that was done there would have to be some provision made for it.

MR. P. S. MAY: Mr. Hartridge's resolution would carry it further and make it available to the public, and that would place no burden on the treasury of the Association, which is not too strong.

THE PRESIDENT: I had in mind that just the regular proceedings and motions and what we are doing now could be put in, a certain number printed, for instance, to cover the membership, and the other could be edited and put in book form and can be put in paper binding, if necessary. Just simply stop after you have prepared one for the members and different associations of the United States, because they are calling for it in every state in the Union. They are interested in us, whether we are in them or not, even in England and

Canada. We will have to print enough to furnish that, but I fear we are going to lose this valuable contribution if we are going to depend upon the Legislature to take care of that situation, and I do not know how all of us here feel, but I know I would be willing to pay most any amount to get those papers of yesterday and those of today in book form. I want the future lawyers to read what we have heard today. The time is coming when those who made these addresses will not be with us.

MR. W. H. PRICE: Don't you think the members of the bar when they ascertain or learn the valuable amount of learning expressed in these various papers and the importance of the articles generally would be glad to pay extra for the publication of these papers? I heartily concur with Mr. Hartridge, but I fear the members of the Legislature will be so busy with politics, etc., that they never would read those papers to determine the real value of them. But some should be devised whereby these papers could be published.

THE PRESIDENT: The question before the house is the motion of Mr. Brown.

The motion was carried.

MR. ARMSTEAD BROWN: Would it be the policy of the Association to send these minutes out to every member of the bar of the state, or just to the members of the Association? It occurred to me it might mean some extra expense, but it would have a good moral effect and educative effect to send a copy to every member of the bar whether a member of the Association or not. It might wake them up and increase our membership.

THE PRESIDENT: That was taken up before, and it was suggested that if they did not take enough interest to join, to let them get their information the best way they could. That is a good point, and it might as well be raised right now.

MR. R. A. HENDERSON: In view of the fact that for two conventions we have distributed it to every member of the bar I think we should not change that precedent; therefore, I move that the minutes should be forwarded to every member of the bar in the state, whether a member of the Association or not.

MR. L. R. RAILEY: It seems to me that is placing an expense upon this Association and its members that is not justified. As Mr.

Henderson has said, for the past two sessions these minutes have been sent to every member of the bar. I do not know how many members that brings in, but it seems that from the reading of the Treasurer's report that there are some members of this Association that have not paid their dues since 1918, and that have been getting the minutes of this body. If they do not think enough of this body to pay their dues when they are on the roll for four or five years I don't think they ought to have a copy of these minutes, and I am opposed to this resolution.

MR. ARMSTEAD BROWN: This thought occurs to me. I have to get up so much. We have had during the past year an increase of 25 per cent, do you not think that we would get back all this extra money, do you not think it would bring in enough extra members by showing them the value of this Association, to defray the extra expenses, for the printing of the extra five hundred copies? In that connection I would be glad if Mr. Ulmer, our Secretary, would state about approximately what it would cost to print the extra five or six hundred volumes of the minutes?

THE SECRETARY: This is going to be a very expensive report. I cannot estimate the cost. I should say to have the additional copies it would be one-third more and, of course, there would be the mailing. It would entail about \$150.00 additional expense, I would say. I might say that for several years our reports were sent to all attorneys in the state, whether they were members of our Association or not. To all these former minutes that were distributed to the attorneys in Florida, membership blanks were attached so that any attorney who might be interested could write out his application and send it in. Yet I do not believe there were many members obtained by this means. I do not know that there were any. I am quite sure that the memberships obtained in the last four or five years have been by personal application of some kind.

MR. W. W. CLARK: I move that the Secretary of this Association send only to the members of this Association the minutes included in this record, but that the Secretary notify the other members of the bar of the state that non-members can secure this matter, which includes the valuable material we have had here, for the cost of \$1.00, or whatever it might be.

MR. G. P. GARRETT: I hear no second. I, therefore, move you, sir, inasmuch as the Executive Committee, after the conclusion

of the convention will be in better condition to ascertain what the finances are, that the matter of distribution of the literature covering this convention and what it will include and what it will cost, be left to the Executive Committee, and that they be given the authority to ascertain what will be included in the report, and how it will be distributed and have the power to act.

MR. L. R. RAILLEY: I rise to a point of order. I don't think that is germane to the subject. Part of the motion has already been acted on as to what goes in it. I don't think the balance of the resolution is germane to the subject.

MR. CLARK: I think Mr. Garrett included in that motion that the Executive Committee should determine what should go in these minutes, and that has been settled.

MR. G. P. GARRETT: I withdraw that part.

The motion was carried.

THE PRESIDENT: I would like to get some expression from the Association. It has been our custom at the banquet for the different members to nominate certain places for their next meeting, and for those nominations to be handed in to the Executive Council, which settles the place as to where the next Bar Association will meet. Another matter we will have to settle before we adjourn finally, will be the question of our executive officers for another term. I would like to entertain a motion from someone as to when we take that up.

MR. W. H. PRICE: I move that we take up these matters immediately after the address by Judge Clayton. That seems to be about the only thing to be done now and I think we better do that before we go to the banquet. We will be busy, you know, when we get to the banquet.

MR. A. AKERMAN: I would call attention to the fact it was printed on the program that officers would be elected at the banquet.

MR. PRICE: I move the program be waived.

THE SECRETARY: I want to state that in my short connection with the Association it has been customary to elect the officers at the banquet, and in view of that custom, and also in view of the announcement, it would only be fair to follow the program as announced.

MR. PRICE: I will state that I was not acquainted with that custom. It has been inaugurated in the last few years, and I have been unable to attend the Association. I withdraw the motion.

Is the question of the city to have the next Association to be decided also at the banquet?

THE PRESIDENT: Any city which desires it can be nominated at the banquet. The Executive Committee decides that point. We had on our program yesterday one of the distinguished sons of the South. He did not arrive yesterday, and I am sorry that a number of distinguished members of this Association have had to leave today before they would have the opportunity which you are going to have now. This jurist and statesman does not need any introduction from me. You have known him for quite a while. If my memory serves me right, he was chairman of the Judiciary Committee of the House of Representatives when the terrible recent cataclysm came in this world. His duties have been many, and they have been admirably performed. Some of you have had the pleasure of presenting legal matters to him in this state, as he came to this state once or twice in the last year to help us out. I take great pleasure in introducing Judge H. D. Clayton, of the Southern District of Alabama.

JUDGE H. D. CLAYTON: For the sake of the stenographer, whom I know is already tired, and for the sake of you, gentlemen, as well, I may say that I have been accustomed for many years to making speeches off-hand and making, therefore, long speeches, and I have reduced what I desire to say to you this afternoon into writing for, I hope, brevity's sake and consciousness sake.

In the course of what I say to you you will observe that I make some strictures upon the legal profession, but I want you to understand that these strictures are not intended for or are they applicable to the bar of Florida. You will permit me to say at this time that during my experience of eight years on the bench and for eighteen years in Washington on the great Law Committee of the House, I have had occasion to come in contact with the lawyers of this country from New York on the Atlantic to El Paso, Texas, in the far West on the Mexican border, and from the Continental United States to the Panama Canal Zone, where I have had the unique distinction of being the only district judge of the Continental United States, where I held court at the President's request. I want to say that during

the whole scope of my experience and with all my observation and contact with lawyers, I say it without flattery, but I say it in truth and sincerity, that if I were going to answer the question "What bar anywhere in the United States would you say obtained the highest percentage of good lawyers," and by that I mean not mere specialists, not mere men who have devoted themselves to particular branches of the law, and not lawyers in the matter of mere oratory, or court house oratory, but I mean by good lawyers to say those who have a thorough knowledge of general law, constitutional law, statutory law, chancery law, common law and admiralty law, I could answer that question very easily; I would say in all truthfulness that I would go to the city of Jacksonville in the State of Florida to find that highest percentage. And I think I might say the same thing of the bar of Tampa, though my experience has been less there than at Jacksonville, and I could say that I have come into contact with just as good lawyers as the Jacksonville and Tampa lawyers from the smaller towns of your state.

Now I say that in order that I may be acquitted in advance of the intention to make any strictures whatever upon the bar of Florida for any sort of dereliction.

Judge Clayton then delivered his address. (See Appendix, page 146.)

MR. ARMSTEAD BROWN: I move that we extend Judge Clayton a vote of thanks for his brilliant and wonderful address and that he be elected an honorary member of our Association.

Motion seconded and unanimously carried.

THE PRESIDENT: We will now adjourn until the banquet to be held tonight at the Country Club at 8 o'clock. If you will assemble here at 7:30, cars will be waiting to carry you out to the club.

The Banquet

JUNE 16TH

The annual banquet was held at the Orlando Country Club Friday evening at 8:00 P. M. Prior to the entertainment features of the banquet a short business session was held.

The following new members were elected:

J. U. BIRD, Clearwater, Florida.

A. B. McMULLEN, Clearwater, Florida.

M. H. JONES, Clearwater, Florida.

Invitations were extended by St. Augustine, Miami and Jacksonville to the Association to hold the 1923 meeting in those cities.

It was moved, seconded and carried that the Executive Council be recommended to select Miami as the place for holding the 1923 convention.

The following officers were elected for the ensuing year:

President

ARMSTEAD BROWNMiami

Secretary

HERMAN ULMERJacksonville

Treasurer

PHIL S. MAYJacksonville

Members of Executive Council

E. P. AXTELLJacksonville

C. O. ANDREWSOrlando

W. H. ELLISTallahassee

O. K. REAVESTampa

Vice-Presidents from Each Judicial Circuit

WILL H. WATSON, 1st CircuitPensacola

FRANK WINTHROP, 2nd CircuitTallahassee

J. B. JOHNSON, 3rd CircuitLive Oak

FRANK JENNINGS, 4th CircuitJacksonville

L. W. DUVAL, 5th CircuitOcala

JOHN U. BIRD, 6th CircuitClearwater

J. J. DICKINSON, 7th CircuitSanford

A. Z. ADKINS, 8th Circuit.....	Starke
H. H. WELLS, 9th Circuit.....	Chipley
J. J. SWEARINGEN, 10th Circuit.....	Bartow
JOHN MURRELL, 11th Circuit.....	Miami
R. A. HENDERSON, JR., 12th Circuit.....	Ft. Myers
GEO. P. RANEY, 13th Circuit.....	Tampa
C. L. WILSON, 14th Circuit.....	Marianna
FRED FEE, 15th Circuit.....	Ft. Pierce
L. C. MASSEY, 17th Circuit.....	Orlando

It was moved, seconded and unanimously carried that the Association express to the local Association its thanks and appreciation for the pleasant entertainment afforded and to the members of the Rosalind Club and Orlando Country Club for the use of their buildings and many courtesies extended.

Thereupon the banquet was turned over to Hon. John E. Hart-ridge of the Jacksonville Bar, who presided as toastmaster.

The following responded to toasts: Arntstead Brown, Judge H. D. Clayton, Judge W. H. Ellis, L. R. Railey, W. H. Price, Judge A. B. McMullen, W. L. Tilden, Judge C. O. Andrews and others.

At the conclusion of the banquet the convention adjourned *sine die*.

HERMAN ULMER,

Secretary.

NOTE

On the afternoon of June 14th the visiting members of the Association were entertained with a motor ride through the beautiful lake and grove country about Orlando. At Lakeside Park a stop was made for swimming, dancing and refreshments.

On the evening of March 16th, a smoker and vaudeville entertainment was enjoyed at the Orlando Country Club.

On both of these occasions the visiting members were guests of the Bar Association of the Seventeenth judicial circuit of Florida.

The annual banquet of the Association was held in the Orlando Country Club on the evening of June 16th.

APPENDIX

The President's Address

LACK OF LAWS—OR LACK OF EFFICIENT LEADERSHIP

By HON. C. O. ANDREWS
Of Orlando

Much energy, time and money has been consumed in recent years by conventions, associations, in Congress, and especially in periodicals, in discussing the question of respect for the law and efficiency in the administration of justice. Practically all of these efforts deal with remedies, after the disease has set in. What we should do is look more to the application of the ounce of prevention rather than to the pound of cure. The malady is deep-seated and it is all important to ascertain the cause by any diagnosis possible.

I shall undertake to show that our chief cause for alarm has its course, first, in the general belief among too many foreign born and among a few natives, that liberty in America is synonymous with libertine; and, second, in a total lack of racial sympathy for the principles of our forefathers as exemplified in the foundation of this Government.

The accumulation of these higher ideals of our forefathers must and does rest upon leaders of thought and the innate racial sympathy for American institutions.

The people of this state have for a century trusted your leadership in many legal matters. They know you have, or should have, the special training, which they lack, in law and governmental affairs. You of all others should best know the tremendous importance of respect for the law. Civilization exists in proportion as opportunity is given men mutually to exercise their talents and enjoy their fruits.

Law is the sole structure upon and around which civilization can be securely built. As the law is perfect or defective so will civilization be secure or otherwise. No matter how grand its exterior, its outlines, no matter how beautiful its ornamentations, civilization, like a wonderful building, is no stronger than the frame work upon which it is erected. That law is the one prime supporting essential to society itself is self-evident.

Laws are enacted to control existing or apprehended conditions. Unless they are enforced they control nothing. An unenforced law is not only a vain thing, it is a dangerous thing and becomes an active poison to the body politic. Lack of power or lack of will to enforce either is a dangerous admission for the state. The mere appearance of such weakness as to one law naturally suggests and encourages the belief that it obtains as to others, and, therefore, extends throughout our governmental fabric.

There are now more than ever before, persons who are restrained only by the bonds the law imposes. The noble purpose and majesty of the law are quite outside their conception or concern. Let them but suspect an unwillingness or an inability to punish and they leap through the net of laws about them, as through a web spun by a spider which has no sting. Punishment they do fear if reasonably certain and immediate.

A call of the roll of constitutional conventions and legislatures discloses that the legal profession largely predominates and if our statutes are defective or our Constitution inadequate, the lawyer is mainly responsible. This responsibility we cannot escape. How very important it is that we should look with jealous care to the preservation of the professional integrity of the bar.

We perhaps already have too many statutory laws. We need no extensions to our Constitutions, but a few changes to make them conform to modern needs. In fundamental law needed changes arise more frequently in democracies than in other forms of government. A democracy is a form of government in which the supreme power is retained by the people and exercised either directly or indirectly through a system of representation and delegated authority periodically renewed. In modern representative democracies, as the United States and France, though the governing body is a minority of the total population, the principle on which the government is based is popular sovereignty.

It follows that in a democracy, such as ours, the success attained must from the very nature of the system depend to a great extent upon the ability and integrity of the leaders chosen to represent sovereignty in each of the three cardinal branches of our government.

It has been well said that a democracy is the ideal form of government, yet it is the most dangerous as from its very nature it depends entirely upon the quality of a majority of its citizenship.

If our government is never to perish from the earth it must depend not upon wars successfully fought nor upon an invincible navy and army, but upon the adequate equipment of the mind and heart of its population in the ideals and duties of a citizen, who holds the ballot as the sacred sceptre of authority. It means service above self ultimately.

A reckless bestowal of citizenship upon undeserving millions of aliens of inferior culture and education of any race who have not our ideals, has gradually caused thinking Americans to become alarmed. Many Americans do not know that less than one-third of Greater New York's five million population are native born Americans. Boston is no longer Puritan, three centuries after it was founded.

There are sinister forces at work, led by designing men who have no sympathy for our institutions. They have taken advantage of unsettled conditions, due almost wholly to after war conditions, to produce a state of chaos, such as would allow the principles of socialism or what is infinitely worse—Bolshevism—to undermine our institutions; for they well know that democracies constitute the great barrier against Bolshevism and world chaos—where all men would really be equal to the same thing and all equal to nothing. There were more murders committed in the city of Cleveland, Ohio, last year than in all the Dominion of Canada.

We are facing grave questions. They threaten the integrity and perpetuation of our institutions, if not the very existence of this republic. We belong not only to ourselves, but to the world. We cannot rest upon our past, decided and glorious as it is. It is the future with which we are concerned. The conditions of life are ever changing and the experience of the fathers are rarely the experience of the sons. The questions presented to us are not the founding of a great nation, but the preservation of one already founded. The Socialists say America is not even democratic because the people are not all the same. But when did democracy guarantee the similarity of people and grade mankind down to a dead level? Democracy does declare and guarantee this:

That men unequal in abilities shall be equal in their rights to develop their capacities. The instance in this country where the poor and lowly—such as Franklin, Andrew Jackson and Lincoln—rose to eminence and fame, are not mere accidents. They are the best proof

of an equality among men in the only sense in which equality is possible—equality of opportunity.

For leadership we must look to those men who, while they respect the past for guidance and the good it has produced, believe that the present and the future are all important—men who would rather be social exiles, having the testimony of an approving conscience, than to be guests in palaces of kings. Such men will impose the principles of Americanism upon all new comers and defend those principles against all attacks.

Looking backward, we see the experience of other nations in the ruthless bestowal of citizenship. A great nation once boasted that it was greater to be a Roman citizen than to be a king. The grant of Roman citizenship to a province or to an individual was a privilege highly valued. It meant at once a rise in social and civil status. While thus mistress of the world a great and final step was taken—the distinction between citizens and aliens vanished by the grant of full citizenship to all subjects of the empire. Granted to vast millions who had not earned it. This was the beginning of the end—the empire fell by its own inward deterioration. The slaves and lower orders of men soon enveloped the plebian class and they in turn enveloped the patrician who constituted the cultured and ruling class. Then all went down together and only indestructable art and history remain to tell of its former glory.

Americans are accustomed to regard a republican form of government as a natural condition. That such a government is mortal and can die, is a thought so entirely foreign to our people that it is folly in the minds of some to even discuss it. A glance at history does not lend encouragement to this cheerful view. Our republic, though the best yet devised by human efforts, is not the first nor the oldest. We have lasted 139 years; Athens with many intermissions lasted 900 years; Florence 300 years; Venice 1100 years, and Rome 500 years. These republican governments have long since passed away and some are little remembered.

The laws of Rome were many and good. In fact the Justinian Code is said to be the most perfect system of laws ever devised by man. Yet Rome rotted and fell even while the Code was in operation. The laws were all sufficient, but the hearts of the people not right by reason of the contamination of races and a resultant lowering of the ideals of citizenship. The laws were not obeyed. The

leaders had lost their powers. When the laws ceased to reign the government resting upon that foundation commenced to topple over. America is a government of laws conceived and instituted by great leaders acting through the consent of the governed. The reign of the people does not always mean the rule of the law—it too often means the mob or anarchy.

All great achievements have been instituted and won by the leadership of men who had acknowledged high ideals. To find this class of men the world has for many centuries had to look mainly to the Nordic race—the one great race before whom tyrants, anarchy and civic injustice has retreated. He rose up, as it were, out of the North and Baltic seas and his descendants are found, thinly scattered in modified form throughout Europe, but the true type mainly in Britton and North America. He is described as tall of stature, oblong head and face and usually of the blond type. In war he is best typified in Lord Nelson at Trafalgar, Wellington at Waterloo, Washington at Yorktown, and the unknown soldier recently returned to the bosom of his country at Washington. Many writers and speakers have described that unknown soldier whom they did not see, or perhaps know, and every description adopted the lines of the typical Nordic or Anglo-Saxon race. He has throughout his history been found first to face the enemy where human justice was in peril—it was he that constituted the bulk of the volunteers in the American Army in the World War (before the draft)—it was he that composed the first division that marched down Fifth avenue, with his face set toward the enemy, while the little round-headed foreign-born Polish Jew and his type from East Side stood on the curb, clapped his hands and then went back to his shop and many children. It was he, with his cousins of the British Isles and his scattered kinsmen of Belgium and of France, who crashed through the Hindenburg lines. The doom of the Huns was sealed from the day the Nordics of the world joined hands.

This great government of ours is the child of the Nordic race, mostly of the Anglo-Saxon branch—it was conceived in love, born in sacrifice and baptized in the blood of our forefathers. The perpetuation of its institutions rests mainly upon the shoulders of the sons of the grandsires who brought it into life.

The immediate dangers confronting us are those of conferring citizenship on too many aliens of known inferior types, or breeding

out as a result of race suicide of the Nordic or Anglo-Saxon, enhanced by the prolific tendencies of the lower races. Madison Grant, one of the most eminent anthropologists of modern times, solemnly warns against this race extermination in his wonderful book, "The Passing of a Great Race." If the race vanish, our ideals and aims go out with it.

A true republic is administrator in the interest of the *whole* community. A pure democracy in its last analysis is the rule of the majority in its *own* interest. A republic is the medium of selection for the technical task of government those best qualified by antecedents, character, and education, in short, of experts. Vox populi, so far from being Vox Dei, thus too often becomes an unending wail for rights for a special class and never a chant of duty.

In America we are now in danger of destroying the privilege of birth; that is, the intellectual and moral advantage a man of good stock brings into the world with him. It is a matter of every day observation that the working of this law of nature is not influenced or affected by democratic institutions or by religious beliefs. Nature cares not for the individual nor how he may be modified by environment. She is concerned only with the perpetuation of the species or type, and heredity alone is the medium through which she acts. As measured in terms of centuries these principles are fixed and rigid and the only benefit to be derived from better environment and better food conditions is the opportunity afforded a race which has lived under adverse conditions to achieve its maximum development, but limits of that development are fixed for it by heredity and not by environment. The reputed "melting pot" degenerates the higher race and by the very law of nature fails to raise the lower strata in the essential elements of character and integrity. Also the higher type refuse to bring children into the world to become competitors of lower type of the foreign born in labor and trades. Mr. Grant says:

"There exists today a widespread and honest belief in the power of environment, as well as of education and opportunity to alter heredity, which arises from the dogma of the brotherhood of man. Thus the view of a group of pre-civil war fanatics that the negro slave was an unfortunate cousin of the white man, tanned by the tropics and denied the blessings of Christianity and civilization, played no small part with the sentimentalists of that period and it has taken us fifty years to become convinced that speaking English, wearing good clothes

and going to school and to church do not transform a negro into a white man."

Nor was an Egyptian freed man transformed into a Roman by wearing a toga and cheering the gladiators. America will have a similar experience with the Polish Jew and other inferior types of Southern Italy now being engrafted at a fearful rate upon the stock of this nation's future citizens. History doesn't lie; democracy is fatal to progress when two or more races of unequal values live side by side. In the pure democratic forms of government the operation of universal suffrage among men tends toward the selection of the *average man* for public office rather than the man qualified by nature, education and integrity. How this scheme of administration will ultimately work out remains to be seen but from a racial point of view—which has no knowledge of sympathy or philanthropy, but adheres rigidly to the laws of nature—it will inevitably increase the preponderance of the lower types and cause a corresponding loss of efficiency in the nation as a whole. The tendency in a democracy also is toward a standardization of type and a diminution of the influence of genius.

A majority must of necessity be inferior to a picked minority and always resents specialization in which it cannot share. The best example of that is the great body composing the labor unions, which is to a great extent, made up of foreign born of every race, color and belief, regardless of fitness.

Philanthropy and noble purpose dictated the doctrine expressed in the Declaration of Independence one hundred and fifty years ago. That document today constitutes the actual basis of American institutions. The men who, almost with their own blood, wrote the words "We hold these truths to be self-evident, that all men are created equal" were themselves the owners of slaves and despised Indians and Spaniards. Equality in their minds meant merely that they were just as good Englishmen as their English brothers across the sea, and it could not have meant otherwise. The words "that all men are created equal" have since been craftly falsified by adding the word "free," although no such expression is found in the original document and the teachings based on these altered words in the American public schools of today would startle and amaze the men who formulated the Declaration.

The physical and psychical structure of man is something entirely distinct from either nationality, language or religion. Race lies at the base of all the manifestation of modern society, just as it has done throughout history, and the laws of nature operate with the same relentless and unchanging force in human affairs.

The temporary advantage of mere numbers enjoyed by the inferior classes in modern democracies can be made permanent by the destruction of superior types—by massacre, as in Russia, or by taxation, as in England, or by amalgamation as in America.

In England, and partially so in America, the financial burdens of war and the interests of labor have imposed such a load of taxation upon the upper and middle classes that marriage and children are looked upon as an increasing burden. The best American homes are too often not blessed by the little ones upon whose head the Nazarine would lay his hand and bless. The little woolly dog has been substituted for an Anglo-Saxon baby. The best example of complete elimination of a competent ruling class is found in Santo Domingo. The same is expected in Mexico. In the civil war the highest race destroyed his own class and shattered for a half century the prestige of the white race. It will take several generations and perhaps wars to recover its former control, if it ever does. The danger, my friends, is more from within than without. Neither the black, nor the brown, nor the yellow, nor the red will conquer the white in battle, for if that time and issue should come there will be an Alvin York or a Major Whittlesy in every hamlet. But if the valuable elements of our race mix with inferior strains, or die out through race suicide, then the citadel of our fathers will crumble for the lack of defenders.

The theory of the melting pot is a halucination. It is founded upon environment and sentimental dogmas of would-be philanthropists. Nature does not recognize it and, therefore, the highest class of mankind will not. The laws of nature, like those of the Medes and Persians, changeth not.

War is destruction of the best strains, spiritually, morally and physically. The Anglo-Saxon, the truest type of the great Nordic race, fights and dies willingly for high ideals. His legions are dependable. Flanders field tells the sad story. For the world's future the destruction of wealth is a small matter compared with the destruction of the best human strains, for wealth can be renewed while these

strains of the real human aristocracy once lost are lost forever. In the New World that we are now working for, where the blessings of liberty and safety of property are to be reassured, we shall save democracy only while democracy discovers its own builders as in the days when our republic was founded.

Applying these principles to our civil affairs of more recent years, we find there is a well recognized deterioration in the quality of statesmanship in the most powerful of the three branches of our Federal and state governments—the legislative. The world war suddenly thrust upon us, found men of inferior ability in both houses of Congress. By reason of the provisions of our Constitution, making the President part of the law-making machinery, nothing can be accomplished for at least two years of his term. He is throttled by a majority of an opposing political party.

The United States Senate, the reputed greatest deliberative body in the world, has almost ceased to function. Some of the best men this nation has produced, are to be found in that body, but they are too few to produce efficiency in the whole body. This is pointed out and discourages those who maintain the higher ideals and it encourages those who want to see our institutions fail.

We have reached the point where the reliable citizen, who prides himself upon his integrity and tranquillity, shrinks from our modern method of nomination for office in the primary system, where he knows the tendency is to elect the average man, rather than the man qualified by character, experience and education. Our condition would be deplorable were it not that we still have a few of those men among us who are willing to place service above self. There are many best thinkers who feel that the primary system of choosing high officials, though necessary at the time instituted, has served its purpose and we should now return to the old principle of our forefathers, of selecting leaders of character and thought out in the open convention, rather than the confiding secret method now used where the self-announced average man is too often the result. Instances are numerous, and we deem it only necessary to mention a few familiar to us which have occurred since the abolition of the old convention system for the primary system. The former system usually resulted in putting the best leader forward, the latter method permits the self-announced politician to put himself forward. Tennessee had her sad experience in a chief executive; South Carolina, Mississippi,

Florida and New York had theirs. To these could be added others. The United States Senate now has members who could never have gone there if their state had been selecting statesmen as was usually the case before the primary and before the Federal Constitution was amended to elect Senators by direct vote. There are many who love to shout for the preservation of the example set by our forefathers, and at the same time forget that not one member of the convention which adopted the Declaration of Independence or formulated the Constitution of the United States, was elected to those bodies by any other method than that of a convention or legislative assembly; likewise, the same was adopted, not by a vote at the polls, but by the respective colonial assemblies, where all matters were debated and thrashed out. At that time and for over one hundred years thereafter only the selected leaders of men were trusted with the important functions of government in the nation and state. The original method produced leaders of high integrity—indeed, experts; the substituted method, we must admit, in the light of experience, to which we cannot close our eyes, has too often produced the *average* man, and in some instances infinitely worse. We might as well turn our faces toward the light of reason and face it with courage—though it be unpopular with the masses of unthinking—for our very institutions are at stake.

Notes Relating To Membership of the Florida Supreme Court Since 1845

By HON. J. B. WHITFIELD

Justice, Florida Supreme Court

By "Treaty of Amity, Settlement and Limits," entered into February 22, 1819, by John Quincy Adams for the United States of America and Luis DeOnis for the Spanish Monarch, and ratified by "Fernando," Ferdinand the Seventh, the King of Spain, October 24, 1820, and by the United States of America February 22, 1821, the King of Spain "cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida," with reservations as to grants to individuals made by Spain prior to January 24, 1818, the date of the first proposal of cession. By Act of Congress, approved March 3, 1821, it was provided that "until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress, all the military, civil *and judicial* powers exercised by the officers of the existing government of the same territories, shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property and religion."

Under the above authority Andrew Jackson, appointed by President James Monroe, March 10, 1821, was Military Governor of East and West Florida. The Government of West Florida was transferred to the United States at Pensacola through Andrew Jackson, July 17, 1821, and that of East Florida at St. Augustine, through Col. Robert Butler, July 10, 1821. By executive ordinance dated Pensacola, July 21, 1821, "Major General Andrew Jackson, Governor of the Province of the Floridas," divided the "Provinces" into two counties, viz. Escambia County, extending from the Perdido River to the Suwannee River, and St. Johns County, embracing all the territory East of the Suwannee River. In the same ordinance a judicial system was established including a County Court in each of the two counties and justices of the peace, all with defined jurisdic-

tion. This executive ordinance by Military Governor Andrew Jackson was attested by "R. K. Call, Acting Secretary of West Florida." Later R. K. Call (Richard Keith Call) was twice Governor of the Territory of Florida, after having been a delegate in Congress from the Territory of Florida.

By Act of Congress approved March 30, 1822, "all the territory ceded by Spain to the United States, known by the name of East and West Florida," was constituted "the Territory of Florida." A judicial system including two Superior Courts and inferior courts established by the legislative council, was by Acts of Congress authorized and established in the Territory of Florida. Appeals were allowed from the Superior Courts to the United States Supreme Court. The administrative government of the Territory was committed to William P. Duval, the first Territorial Governor, beginning in 1822, and his successors in office by appointment from the President of the United States. In the Governor and a Legislative Council consisting of thirteen persons appointed by the President, the legislative power of the Territory was vested. Later the members of the Legislative Council were increased and were elected from the different counties. By Act of the Legislative Council approved August 12, 1822, the Territory was divided into four counties, viz: West of the Choctauhatchee River was Escambia County; between the Choctauhatchee and Suwannee Rivers was Jackson County; North of the St. Johns River and a line from Cow Ford (near where the city of Jacksonville now is) to the mouth of the Suwannee River was Duval County; the remainder of the Territory was St. Johns County. Two "inferior" Circuit Courts were established by the Legislative Council, one for West Florida, with terms at Pensacola and at Big Spring on the Chipola River in Jackson County, and one for East Florida with terms at St. Augustine and at Jacksonville "near the Cow Ford on St. Johns River." Appeals from the "inferior Circuit Courts" were allowed to the Superior Courts. Territorial Acts approved August 12, 1822. By Act of Congress, approved May 26, 1824, three Superior Courts were established, one West of the Apalachicola River, one between the Apalachicola and Suwannee Rivers, and one South and East of the Suwannee River. There was one judge for each Superior Court, and the Superior Court judges constituted a Court of Appeals for the Territory of Florida. Appeals were allowed from the Court of Appeals to the

United States Supreme Court. Other counties and local courts were established in the Territory as the population expanded. A southern judicial district was established in 1828 covering the territory South of Indian River and East of Charlotte Harbor. This court was given certain admiralty jurisdiction. James Webb and afterwards William Marvin were the judges of this court.

In 1833 the Territorial Court of Appeals was composed of Thomas Randall, judge of the Superior Court for Middle Florida, president of the court; John A. Campbell, judge of the Superior Court for West Florida; Robert Raymond Reid, judge of the Superior Court for East Florida, and James Webb, judge of the Superior Court for South Florida. James S. Linn was clerk and Thomas Eston Randolph, marshal. The names of other judges of the Territorial Courts are not available.

Pursuant to an Act of the Legislative Council of the Territory of Florida, approved February 2, 1838, "to call a convention for the purpose of organizing a State Government," on December 3, 1838, delegates representing "the people of the Territory of Florida" assembled in convention at "the City of St. Joseph," then Franklin, now Calhoun County, on the Gulf Coast of Florida, and on January 11, 1839, the convention promulgated a Constitution under which the state, by Act of Congress, approved March 3, 1845, was "admitted into the Union on equal footing with the original states, in all respects whatsoever."

Among the members of this convention were Walker Anderson, Thomas Baltzell and L. A. Thompson, who afterwards became members of the Supreme Court; D. Levy (D. L. Yulee) and James D. Westcott, who were the first United States Senators from Florida, in 1845; D. Levy (D. L. Yulee) also was a delegate in Congress from the Territory of Florida; E. C. Cabell, who became the first United States Congressman from Florida; Joseph B. Browne, father of the present chief justice; William Marvin, who afterwards was a judge of a United States Admiralty Court in the Southern District of Florida from 1839 to 1847, and United States District Judge for the Southern District of Florida from 1847 to 1863, and in 1865-6 was a provisional Governor of Florida; George T. Ward, who was a member of the Territorial Legislative Council, and also of the Secession Convention of 1861, and was colonel of the Second Florida Regiment and killed in the battle of Williamsburg, Va., in

1862, being succeeded by Colonel (afterwards General) E. A. Perry, who was Governor of Florida in 1885-9; Robert Raymond Reid, President of the Convention, had been Judge of the Eastern Circuit and was also Governor of the Territory of Florida 1839-41; and John C. McGehee, who afterwards was President of the Secession Convention of 1861. A. L. Woodward, John W. Malone and Leigh Read were also members of the Constitutional Convention of 1838-9.

The Constitution of 1838 provided that "for the term of five years from the election of the Judges of the Circuit Courts, and thereafter until the General Assembly shall otherwise provide, the powers of the Supreme Court shall be vested in, and its duties performed by the judges of the several Circuit Courts within this state, and they, or a majority of them, shall hold such sessions of the Supreme Court, and at such times as may be directed by law."

Under the Constitution the judges were elected by the Legislature for five year terms and by an amendment the term was increased to eight years. The state was divided into four Judicial Circuits, the Western, Middle, Eastern and Southern Circuits, the Legislature being given power to create other circuits. The State Government was organized in June, 1845. W. D. Moseley having been on May 26, 1845, elected Governor was inaugurated, and the Legislature convened June 23, 1845.

By an Act of the first Legislature of the State of Florida approved by Wm. D. Moseley, the first Governor of the state, July 25, 1845, the then four judges of the Circuit Court constituted the Supreme Court and they elected a chief justice. The membership of the first Supreme Court of the state consisting of the circuit judges was: Thomas Douglas, Eastern Circuit, chief justice; Thomas Baltzell, Middle Circuit, and George S. Hawkins, Western Circuit, justices. Isaac H. Bronson, who was originally judge of the Eastern Circuit, and William Marvin, who was judge of the Southern Circuit, resigned, and both became Federal district judges. George W. McCrae served a part of a term by appointment, and was succeeded by Joseph B. Lancaster, as judge of the Southern Circuit. Thomas Douglas succeeded Isaac H. Bronson, September 27, 1845. Joseph Branch was the first Attorney General of the state, and James T. Archer was the first Secretary of State. Mariano D. Papy was the first clerk of the State Supreme Court. Oscar A. Myers was the

Governor's secretary. James A. Berthelot was President of the Senate; Thomas F. King, Secretary of the Senate. Hugh Archer was Speaker of the House of Representatives, and Mariano D. Papy, Clerk of the House.

By Chapter 371, Laws of Florida, a Supreme Court consisting of one chief justice and two associate justices was provided for, and on January 11, 1851, Walker Anderson, chief justice, and Leslie A. Thompson and Albert G. Semmes, associate justices, organized the court. Walker Anderson resigned May 24, 1853, and Benjamin D. Wright succeeded him. By an amendment of the Constitution the judges of the Supreme Court were chosen by the electors of the state. At the election October 1, 1853, there were elected: Thomas Baltzell, chief justice, and Thomas Douglas and Charles H. DuPont, associate justices. Thomas Douglas died and Bird M. Pearson was chosen in his place.

On January 2, 1860, Charles H. DuPont became chief justice and William A. Forward and David S. Walker associate justices. In January, 1868, David S. Walker having been elected Governor, and William A. Forward having died, they were succeeded by A. E. Maxwell and James M. Baker, the last two having been members from Florida in the Confederate States Senate. Judge A. E. Maxwell resigned and was succeeded by Samuel J. Douglas, who had been a judge of the Superior Court of the Territory of Florida.

Under the Constitution of 1868, the court was reorganized with Edwin M. Randall chief justice and O. B. Hart and J. D. Westcott, Jr., associate justices, who were appointed for life. Judge Hart was elected Governor, and was succeeded by Franklin Fraser, who resigned, and was succeeded by R. B. Van Valkenburg.

In January, 1885, Chief Justice Randall resigned, and was succeeded by Geo. G. McWhorter, and J. D. Westcott, Jr., having resigned at the same time, Geo. P. Raney was appointed.

In 1887 Chief Justice McWhorter resigned and was succeeded as chief justice by A. E. Maxwell, who had been an associate justice more than twenty years before. In 1888 Judge Van Valkenburg died and was succeeded by H. L. Mitchell. The Constitution of 1885 provided that in 1888 three justices of the Supreme Court should be chosen at the general election, and that the chief justice thereafter should be chosen by lot. In November, 1888, A. E. Maxwell, George P. Raney and H. L. Mitchell were elected justices of

the Supreme Court. In January, 1889, Geo. P. Raney became chief justice. In January, 1891, Judge Maxwell was succeeded by M. H. Mabry, and Judge Mitchell having resigned to return to the circuit bench was succeeded by R. F. Taylor. In May, 1894, Judge Raney resigned and Benjamin S. Liddon, having been appointed justice, by lot became chief justice. Judge Liddon resigned in January, 1897, and F. B. Carter was appointed by Governor Bloxham. By Constitutional amendment, adopted in 1902, three justices were added to the court, and Governor Jennings appointed E. C. Maxwell, T. M. Shackleford and R. S. Cockrell. Section 2, Article V, Constitution as amended in 1902. In January, 1903, W. A. Hocker succeeded Judge Mabry, who declined re-election. In February, 1904, Judge Maxwell resigned and J. B. Whitfield was appointed. In November, 1904, T. M. Shackleford, R. S. Cockrell and J. B. Whitfield were elected justices under Chapter 5124. In 1905 Judge Carter resigned and C. B. Parkhill succeeded him. Judge Parkhill resigned in January, 1912, and by legislative enactment no successor was appointed. Chapter 6169. In January, 1915, W. H. Ellis succeeded Judge Hocker, who had declined further service. In January, 1917, Jefferson B. Browne succeeded Judge Cockrell, and in September, 1917, Judge Shackleford resigned and Thomas F. West was appointed.

Under Chapter 4905, Acts of 1901, the Supreme Court appointed as Supreme Court Commissioners Judge W. A. Hocker, Judge E. C. Maxwell and Hon. Jas. F. Glen, who served until by Constitutional amendment three justices were in December, 1902, added to the court. Judge Hocker and Judge Maxwell were Circuit Judges when appointed Commissioners. In November, 1902, Judge Hocker was elected a justice to succeed Judge Mabry, who voluntarily retired. A Constitutional amendment having been adopted in November, 1902, authorizing three additional justices of the Supreme Court, the Commissioners were discontinued. The opinions prepared by the Supreme Court Commissioners and adopted by the court appear in Volumes 43 and 44, Florida Reports.

Judge Raney became Chief Justice in January, 1889, by lot, for six years, but resigned in the sixth year, 1894, and his successor, Judge Liddon, became Chief Justice for the balance of the year. In January, 1895, Judge Mabry became Chief Justice for the remainder of his term. In January, 1897, Judge Taylor became Chief Jus-

tice for the then remaining two years of his term, and continued during the succeeding terms of six years. In January, 1905, Judge Whitfield became Chief Justice for the remainder of his term by appointment, which expired in June, 1905, when Judge Shackelford became Chief Justice. In 1909, Judge Whitfield again became Chief Justice and was succeeded in 1913 by Judge Shackelford, who was succeeded by Judge Taylor in 1915, and he was succeeded in 1917 by Judge Browne, the present Chief Justice.

Three Justices of the Supreme Court afterwards were elected Governor, viz, D. S. Walker, O. B. Hart and H. L. Mitchell. Judge A. E. Maxwell and Judge James M. Baker were the only Confederate States Senators from Florida. Judge Maxwell had been a member of Congress before the Civil War and had also been Attorney General and Secretary of State of Florida. Later he was circuit judge, and also a member of the Constitutional Convention of 1885, concluding his long and exalted service as a member of the Supreme Court for the second time. Judge Baker was a distinguished circuit judge until his resignation in 1890. In 1888 Judge Mitchell was nominated as a Justice of the Supreme Court, and in August, 1888, upon the death of Judge Van Valkenburg, Judge Mitchell, who was then a circuit judge, was appointed to the Supreme Court in advance of the term to which he was elected. In 1891 Judge Mitchell returned to the circuit bench and was elected Governor in 1892. In 1903 Judge F. B. Carter resigned and by appointment became circuit judge, and Judge Parkhill, who was circuit judge, by appointment succeeded Judge Carter as justice.

Six members of the court had previously been Attorney General, viz: A. E. Maxwell, Jas. D. Westcott, Jr., Geo. P. Raney, J. B. Whitfield, W. H. Ellis and T. F. West. Judge E. M. Randall was admitted to practice before the Supreme Court after he had served for sixteen years as Chief Justice of the court. Judge McWhorter resigned in 1887, and became chairman of the first Railroad Commission, the other members being Judge E. J. Vann and Mr. William Himes.

Judge H. F. Taylor has served longer than any other member of the court. This is his thirty-second year of service, and he has been nominated without opposition for another term of six years.

Under the Constitution, Circuit Judges are called in to sit as Justices of the Supreme Court when a justice is disqualified. Under

Chapter 7837, Circuit Judges were authorized to assist the Supreme Court in preparing opinions. (Among the Circuit Judges who have served as Justices of the Supreme Court or in preparing opinions in particular cases are: J. J. Finley, T. F. King, J. Wayles Baker, J. B. Lancaster, W. A. Forward, B. A. Putnam, Thomas T. Long, Wm. Bryson, J. B. Dawkins, R. B. Archibald, W. B. Young, P. W. White, D. S. Walker, A. E. Maxwell, J. F. McClellan, L. W. Bethel, J. F. White, R. M. Call, J. W. Malone, J. D. Broome, E. K. Foster, F. B. Carter, H. L. Mitchell, W. S. Bullock, J. T. Wills, O. K. Reaves, W. D. Barnes, A. G. Campbell, D. J. Jones, C. L. Wilson, E. C. Love, M. F. Horne, G. C. Gibbs, D. A. Simmons, J. W. Perkins, H. P. Branning, E. B. Donnell, W. W. Whitehurst, E. J. Vann, C. O. Andrews, F. M. Robles and J. S. Edwards.)

Judge D. S. Walker was a member of the Governor's Cabinet, a Justice of the Supreme Court, then Governor, then Circuit Judge. Judge Mabry was a member of the Legislature in 1883 and was Lieutenant Governor 1885-9 under the Constitution of 1868.

Judge Thomas Baltzell, Thomas Randall, W. A. Forward, H. L. Mitchell, W. A. Hocker, E. C. Maxwell and C. B. Parkhill were Circuit Judges *before* becoming Supreme Court Justices. Judges H. L. Mitchell, D. S. Walker, F. B. Carter, J. M. Baker, A. E. Maxwell were Circuit Judges *after* being members of the Supreme Court. Judge McWhorter was Speaker of the House of Representatives in 1877, and Judge Vann was President of the Senate in 1862.

Judges A. E. Maxwell, E. M. Randall, R. F. Taylor and W. A. Hocker, J. W. Malone, J. F. McClellan, L. W. Bethel and J. D. Broome were members of the Constitutional Convention of 1885. Judge W. D. Barnes was a member of the State Senate, State Comptroller and Circuit Judge after having been State Attorney.

Judge A. E. Maxwell was Secretary of State, Attorney General, member of Congress of the United States in 1853, Justice of the Supreme Court, Confederate States Senator and Chief Justice and Justice of the Supreme Court and Circuit Judge of Florida. Judge Hawkins was a member of the United States Congress from Florida, and Judge Dawkins was a member of the Confederate States Congress. Judges A. E. Maxwell, O. B. Hart, H. L. Mitchell, J. D. Westcott, Geo. P. Raney and T. F. West served in the legislative, executive and judicial departments.

The first James D. Westcott was born in Bridgeton, N. J., January 26, 1775, and died in Trenton, N. J., March 2, 1841. He was the father of the second James D. Westcott, who was born in Alexandria, Va., May 12, 1802, and died at Montreal, Canada, January 19, 1880. This James D. Westcott was Secretary of the Territory under Governor Duval and a member of the Constitutional Convention held at the "City of St. Joseph" on the Gulf Coast of Florida, December 3, 1838, to January 11, 1839; and he was United States Senator from Florida, 1845-9. 61 Fla. 834. He was the father of James D. Westcott, III, who was a Justice of the Florida Supreme Court 1868 to 1885.

The third James D. Westcott was born May 1, 1839, at Tallahassee, Florida. In 1866 he was a member of the Florida Legislature. In July, 1868, he was appointed Attorney General of Florida, and in the same month was appointed a Justice of the Supreme Court. He resigned January, 1885, and died in Tallahassee, Florida, April 29, 1887. See 24 Fla. Reports, p. V.

T. J. Boynton was on July 9, 1868, nominated and confirmed for Chief Justice of the Supreme Court of Florida, with O. B. Hart and Edwin M. Randall as Associate Justices; but Judge Boynton being then Judge of the United States Court for the Southern District of Florida, declined the appointment as Chief Justice, and on July 30, 1868, Judge Randall was confirmed as Chief Justice and J. D. Westcott, Jr., as Associate Justice with O. B. Hart.

(Since 1890 an appointment to the Supreme Court has been declined by Hon. C. M. Cooper, Hon. W. B. Young, Hon. S. M. Sparkman, Hon. J. W. Malone, Hon. F. P. Fleming, Sr., and Hon. W. A. Blount.)

Those who have been Attorney General are: Joseph Branch, A. E. Maxwell, James T. Archer, D. P. Hogue, M. D. Papy, J. B. Galbraith, J. D. Westcott, Jr., A. R. Meek, Sherman Conant, J. C. B. Drew, H. Bisbee, Jr., J. P. C. Emmons, W. A. Cocke, Geo. P. Raney, C. M. Cooper, W. B. Lamar, J. B. Whitfield, W. H. Ellis, Park Trammell, T. F. West, Van C. Swearingen and Rivers Burdord.

While there are a number of very able and most interesting opinions in each volume of the Florida Reports prior to Volume 12, the succeeding Volumes to Volume 20, contain many cases vitally affecting the welfare of the state under the Constitution of 1868.

Judge Westcott's historic opinion in the Drew case, 16 Fla. 17, is a must useful judicial production. This opinion was concurred in by Judges Randall and Van Valkenburg. F. T. Myers was clerk of the court. Beginning with Volume 23, there are many opinions construing and applying the Constitution of 1885, which is now the organic law of the state.

Under the first Railroad Commission Statute of 1887, matters of supreme importance arose for judicial decision, but the Act was repealed in 1891. However in 1897, another Railroad Commission Statute was enacted and with the new advance and continued growth of the state, governmental activities through the agency of commissions have presented questions that have been discussed in many opinions since the decision of R. R. Commissioners v. Pensacola & A. R. R. Co., 24 Fla. 417, 5 South. Rep. 129, which was a pioneer case under the first Railroad Commission Statute, the opinion by Chief Justice A. E. Maxwell being still a leading authority in America.

The present rapid development of the state and the countless new questions being raised by the commercial and civil activities of the country, give promise of increasing and ever more perplexing problems that will require of the judges the utmost patience and loyal devotion to duty, with the Constitution and lofty ideals as the only guides under Providence.

JUSTICES OF THE FLORIDA SUPREME COURT

Thomas Douglas (C. J. 1846-1850) 1853-1855.)

Thomas Baltzell (1846-1850) C. J. 1854-1860.)

George S. Hawkins (1846-1850).

George W. McCrae (1847).

Joseph B. Lancaster (1848-1850).

Walker Anderson (C. J. 1851-1853).

Leslie A. Thompson (1851-1853).

Albert G. Semmes (1851-1853).

Benjamin D. Wright (C. J. 1853).

Charles H. DuPont (1854-1860) (C. J. 1860-1868).

Bird M. Pearson (1856-1859).

William A. Forward (1860-1865).

David S. Walker (1860-1865).

Augustus E. Maxwell (1865-1866) (C. J. 1887-1889) (1889-1890).

James M. Baker (1865-1868).

Samuel J. Douglas (1866-1868).

Edwin M. Randall (C. J. 1868-1885).

Ossian B. Hart (1868-1872).

James D. Westcott, Jr. (1868-1885).

Franklin Fraser (1873-1874).

Robert B. Van Valkenburg (1874-1888).

George G. McWhorter (C. J. 1885-1887).

George P. Raney (1885-1889) (C. J. 1889-1894).

Henry L. Mitchell (1889-1891).

Robert Fenwick Taylor (1891-1896) (C. J. 1897-1905) (1905-1915) (C. J. 1915-1917) (1917-).

Milton H. Mabry (1891-1895) (C. J. 1895-1897) (1897-1903).

Benjamin S. Liddon (C. J. 1894) (1895-1897).

Francis B. Carter (1897-1905).

Evelyn C. Maxwell (1902-1904).

Thomas M. Shackleford (1902-1905) (C. J. 1905-1909) (1909-1913) (C. J. 1913-1915) (1915-1917).

Robert S. Cockrell (1902-1917).

William A. Hocker (1903-1915).

James B. Whitfield (1904) (C. J. 1905) (1905-1909) (C. J. 1909-1913) (1913-).

Charles B. Parkhill (1905-1911).

William H. Ellis (1915-).

Jefferson B. Browne, (C. J. 1917-).

Thomas F. West (1917-).

UNITED STATES JUDGES FOR FLORIDA

Florida District:

Isaac H. Bronson, August 8, 1846, to February 23, 1847.

Northern District:

Isaac H. Bronson, February 23, 1847, to August 13, 1855.

McQueen McIntosh, March 11, 1856, to January 10, 1861.

Philip Fraser, July 17, 1862, to May —, 1866.

Thomas Settle (of N. C.), January 30, 1877, to November 30, 1888.

Charles Swayne, May 17, 1889, to July 5, 1907.

William B. Sheppard, September 4, 1907—.

Southern District:

William Marvin, March 3, 1847, to July 1, 1863.

John A. Bingham (of Ohio), June 4, 1863, to October 19, 1863.

T. J. Boynton, October 19, 1863, to —, 1870.

John McKinney, November 8, 1870, to October 15, 1871.

James W. Locke, February 1, 1872, to August —, 1912.

John M. Cheney, *ad interim*, August 26, 1912, to March 4, 1913.

Rhydon M. Call, May 26, 1913—.

Under Act of Congress May 23, 1828, there was a Superior Court of the United States for the Southern District of Florida with special admiralty jurisdiction. The judges of this court were James Webb, from May 26, 1828, to —, 1839, and William Marvin, from March 11, 1839, to March 3, 1847.

A Century With the Chief Executives of Florida

By HON. FRANCIS P. FLEMING
Of Jacksonville

Mr. President and Gentlemen:

When a lawyer becomes a politician, I mean a statesman, he always leaves opportunities to the members of the profession to extend their practice and he often renders distinguished service to the State—a two-fold blessing. During the past century twenty-eight individuals have been chief executive of our state. Of these, sixteen were lawyers and they were in power for fifty-three years. It is a cause of satisfaction to the bar to know that much of the good accomplished by the Governors occurred while lawyers were in office.

General Andrew Jackson was commissioned Governor of Florida by President Monroe on March 10th, 1821. He proceeded with his family and staff from "The Hermitage" to Florida. The change of government took place at Pensacola, the Spanish Governor, Don Jose Callava, executing the formal signatures for the delivery of West Florida to the United States, and to General Jackson as its representative, and as the Governor of Florida. The ceremony for East Florida had occurred at St. Augustine a week earlier, where Spain was represented by Governor Don Jose Coppinger, and the United States by Colonel Robert Butler, Adjutant General on the staff of General Jackson.

In Pensacola trouble occurred in regard to the delivery by Spain of papers relating to private rights, required by the treaty to be turned over to the United States. The agreement was not being strictly followed; there was a stormy interview between the two governors, and Jackson ordered the Spaniard to jail; while he was there the boxes at his house were opened, and the desired documents taken. Then the Spanish officer was released on a writ of habeas corpus. There was similar trouble in St. Augustine, but all the records were obtained.

Among the first ordinances by Governor Jackson was one prohibiting the selling of intoxicants to soldiers. The prohibition movement began early in Florida, and even under that stern old general.

During the administration commissioners were appointed to settle the claims for lands under the grants of the British and Spanish governments. Governor Jackson resigned November 13, 1821, and returned to Tennessee, though his administration nominally continued until June 1822.

Governor William P. Duval was then appointed. He had been serving as United States Judge for East Florida. His tenure of office was twelve years and was replete with acts for the benefit of the Territory. The capital was located at Tallahassee, and a building commenced in 1824. The legislative council met there in the latter part of that year. Congress appropriated \$20,000 for a high road connecting Pensacola Bay and St. Augustine.

In 1823, Governor Duval negotiated the treaty of Fort Moultrie with the Indians whereby they agreed to remove to the interior country South of the Withlacoochee River. The legislative council of 1823-1824 formed eleven of the old original counties of Florida.

One of the first railroads in the United States was finished in 1834, when iron was laid from Tallahassee to St. Marks. Governor Duval vetoed legislative charters for several banks and doubtless prevented additional failures in stormy financial times which followed.

John H. Eaton, a lawyer from Tennessee, became Governor in 1834, and after two years tenure of office he became minister to Spain. About the end of this administration the Indian war began.

Richard K. Call—twice Governor—was a native of Virginia, and had served as a Captain in the United States Army on the staff of General Jackson. He resigned from the army in 1822, lived in Florida from then onward, held various political offices in the state, and was general of the Florida militia. General Call was appointed Governor in the latter part of 1835, and given military command in Florida. At the beginning of the Indian war he defeated the Indians at the battle of the Wahoo Swamp. This bloody war continued for seven years, until 1842. Many officers of the United States army who were engaged afterwards became famous—General Winfield Scott, distinguished in the Mexican war; General Zachery Taylor of the Mexican war and President of the United States; William W. Loring, Colonel in the Mexican war, Major General Confederate Army and Adjutant General of the army of the Khedive of Egypt in the Abyssinian war; Samuel Cooper, Adjutant

General Confederate States Army; Joseph E. Johnston, General Confederate States Army; and William T. Sherman, Major General United States Army.

In 1836, a University of Florida was proposed and trustees were appointed, but there was not a sufficient sale of the lands given for its support, to warrant its establishment. During the administration the towns of Apalachicola and St. Joseph became great cotton ports, and a 30-mile railroad was built from St. Joseph to the Apalachicola river. A number of banks and life insurance companies were organized in the territory and proved generally disastrous to all concerned.

Governor Call was anxious to have Florida admitted to statehood, but the census showed not enough inhabitants. Nevertheless a convention met at St. Joseph in 1838 and adopted a bill of rights and Constitution.

Governor Call was succeeded in 1839 by Robert R. Reid, a lawyer from South Carolina, who served as judge of the Superior Court of the Eastern District of Florida. He died while in office in 1841. In the same year the famous town of St. Joseph was depopulated by a virulent attack of yellow fever, and was abandoned; the railroad was later taken up.

In 1841, Governor Call was appointed to a second term by President Tyler, and served until 1844. He terminated the Indian war in 1842, but during its seven years 20,000 volunteers had been called from states as far north as Pennsylvania and New York, and the force of the regular army in Florida was kept up to four thousand for six years. Of the regular army and navy alone, 1500 officers and men lost their lives.

A number of disastrous storms in various parts of Florida destroyed much property during his administration.

In 1844, John Branch, a lawyer of North Carolina, was appointed governor. He was probably the most famous of all the territorial executives of Florida, save General Jackson, as he had been governor of North Carolina, United States senator from that state, and Secretary of the United States Navy.

After the admission of Florida as a State, William D. Mosely was elected governor by the Democrats. He was also a lawyer from North Carolina, but had lived in Florida since 1839.

In 1847 Thompson's Digest of the laws of Florida was published. The Mexican war—1846-1847—was fought during the Mosely administration, and Florida furnished two companies of infantry.

In 1849, Thomas Brown became governor, by the votes of the Whigs. He moved from Virginia to Florida with his family in 1827. This administration was memorable for the establishment of a system of public education and a revival of the spirit of enterprise. In 1853, the East Florida Seminary was established at Ocala.

In 1853 the bar contributed another governor in the person of James E. Broome. While he served four railroad companies were chartered by the legislature.

Madison S. Perry, a native of South Carolina, came to Florida in 1847. He was elected by the Democrats and took office as Governor in 1857. A settlement was effected of the long dispute which originated in 1818 regarding the Florida-Georgia boundary.

Florida seceded on the 10th day of January, 1861.

In 1861, Governor John Milton, a lawyer who first came to Florida as a captain in the Seminole War, went in office and served until his death April 1, 1865; thereupon Alexander K. Allison, president of the state senate, became acting governor. On May 9, 1865, General McCook, with a military force, arrived at Tallahassee and took possession.

President Andrew Johnson, by proclamation on June 13, 1865, appointed William Marvin, former Judge of the United States District Court for the Southern District of Florida, provisional Governor of the State.

At the election in November, 1865, David S. Walker was chosen Governor, without opposition. Governor Walker was a native of Kentucky; he practiced law in Tallahassee, served as State Senator, Superintendent of Public Instruction, and a Justice of the Supreme Court of Florida. During his administration civil government was actually restored to the state, and the public school system re-established. The convention of 1868 adopted the best Constitution Florida has ever had. It served well as the fundamental law until 1885.

At the election of 1868 the freedmen voted, which resulted in the selection of Harrison R. Reid as Governor. He strove earnestly

to better adverse conditions but had little assistance from the politicians who swept into the state. Twice impeached he was tried only once and then acquitted.

In 1873 Ossian B. Hart, a lawyer from Jacksonville, was elected Governor. He survived only a year and then Marcellus L. Stearns, Lieutenant Governor, assumed the chair.

The close of the Reconstruction Period in Florida was marked by the election in 1876 of Governor George F. Drew, Democrat. His term lasted from 1877 to 1881. During this administration the rate of taxation was reduced, as was the floating debt and bonded debt of the state; the public school system was greatly improved; a new convict system adopted; and the legislature created the Bureau of Immigration, composed of the Governor, the Comptroller, and the Commissioner of Lands and Immigration. McClelland's Digest of the laws of Florida was printed in 1877, and superseded Bush's Digest published in 1871.

William D. Bloxham, Democrat, was governor from 1881 to 1885. During this period the legislature increased the assessed value of property. The Vose litigation concerning the Internal Improvement fund was settled, the Internal Improvement Board sold four million acres of swamp land to Hamilton Disston at 25c an acre, the system of public education was much improved and many miles of railroad were constructed, including the last link connecting Jacksonville with Pensacola.

Edward A. Perry, Democrat, was Governor from 1885 to 1889. He was born in Massachusetts, educated at Yale College, and became a resident of Pensacola in 1856, where he practiced law. During his term a pension law was enacted for the benefit of Confederate soldiers and sailors. A convention was held at Tallahassee in 1885, which drafted a new Constitution, which was adopted by the state in the general election of November, 1886.

Upon the recommendation of Governor Perry, the legislature established a permanent railroad commission. The public schools and the state institutions of higher learning were much improved.

The building of railroads continued at a rapid rate, until a total of 2,336 miles had been constructed in 1888.

Governor Francis P. Fleming, a lawyer and Floridian by birth, served from 1889 to 1893. A few days after his inauguration, he is-

sued a proclamation calling a special session of the legislature to establish a State Board of Health. The result was a most efficient law. The first health officer was Dr. Joseph Y. Porter, of Key West, a yellow fever expert and a man of great executive ability. The wisdom of this legislation and the efficiency of the State Board of Health has been proven conclusively as there has never been a yellow fever epidemic in Florida since that time.

The mining of phosphate was begun, the legislature created the office of state chemist in 1889, and a commission of fisheries of three members was created. In 1891 the state troops were increased to 20 companies of infantry and two of artillery.

The legislature of 1889 passed an act for a revision of the Florida Statutes, and provided that the governor should appoint a commission of three members to perform such work. Governor Fleming appointed William A. Blount, Charles M. Cooper and Louis C. Massey; the result of their labors was the Revised Statutes of Florida of 1892. The work was divided up among the three commissioners and much of the credit for this most excellent revision is due to that able jurist and your distinguished fellow citizen, Hon. Lewis C. Massey.

Henry L. Mitchell, Democrat and lawyer, was governor from 1893 to 1897. He was a native of Alabama and became a resident of Florida in 1846. The legislature enacted a new election law embodying the Australian ballot system. The great freeze of 1895 destroyed practically all the orange groves in Florida. In 1895 and 1896 many filibustering expeditions embarked from Florida in aid of the Cuban revolution.

The eloquent and able Bloxham was again called to the gubernatorial chair in 1897. During his administration a new railroad commission was created, the Florida Naval Militia was organized, the Spanish-American War broke out and the state furnished one regiment as her quota to the army, and some naval militia. Large bodies of troops were stationed at Tampa, Jacksonville and other points in Florida, and the army which invaded Cuba embarked at Tampa.

An unsuccessful attempt was made to move the capital from Tallahassee in the primary election of 1900.

W. S. Jennings of Illinois became Governor in 1897. During his administration there were collected the Indian war claims of Florida against the United States amounting to more than a million dollars. He caused some of the state lands to be sold to Bolles and realized \$2.00 per acre. The legislation establishing the University of Florida and College for Women was enacted; the capital building in Tallahassee was enlarged; a commission to assist the Supreme Court of Florida was created; and the scheme for draining the Everglades was worked out.

Present politics is future history. The past twenty years is so close to us that no proper perspective can be obtained. You, gentlemen, know more of the recent administration than I could tell you.

During the century that Florida has been a part of these United States, for eleven years a state of war existed, and many battles have been fought within her borders. She has been visited by storm and earthquake, by freeze and flood, by fire and disease, but throughout all of that time her lawyer governors and other members of the bar have done much for the upbuilding, development and construction of our dear old state. Remembering the loyal and unselfish services of those grand old lawyers of former days the state confidently looks to the members of the Florida Bar Association to do their part in carrying on the good work.

W. A. Blount As a Lawyer and a Citizen

By HON. JOHN E. HARTRIDGE
Of Jacksonville

Mr. President:

The Latin poet, Horace, relates that on the road that led to Brundisium there were three gates. On the outer gates was written "BE BOLD." On the second gate was written, "BE BOLD! BE BOLD!" And on the third gate was written, "BE BOLD! BE BOLD! BE BOLD! BUT WITH ALL BE NOT TOO BOLD."

These words have come into my thought in considering the life and character of Mr. W. A. Blount, either is a lawyer or a citizen, or jointly as a lawyer and a citizen, for, as I take it, the admonitions placed upon these three gates meant nothing more nor less than independence in character and in life's work, but with all an independence guided by prudence and wisdom, and so construed give emphasis to the life and character of Mr. Blount, as I knew him in his teens, as a college boy, and later as a man measuring up to all of the duties and demands of life, and as a lawyer outstripping the large majority in the profession until he had reached the dizzy heights that made his acknowledged ability and learning as a lawyer the common acclaim, not only in Florida but of the whole country, and gave voice and clearance when he became the head of that great body of learned lawyers, the American Bar Association.

As illustrative of how he was regarded by lawyers of eminence, it is not amiss to mention that some years ago, in talking of Mr. Blount and his erudition as a lawyer, with the late Col. Horatio Bisbee, he himself a great lawyer among great lawyers, he remarked: "I always take off my hat to Mr. Blount. He never scratches the surface, but digs to the deepest depths of every question that comes to him," and so he did.

While we are proud to claim Mr. Blount as a citizen of the State of Florida, we are not able to claim him as a native of the state, and it is, therefore, proper that some account of his birth and ancestry be here given.

William Alexander Blount was born in Clarke County, Alabama, October 25th, 1851, and died in Baltimore, Maryland, on the 15th day of June, 1921.

Mr. Blount was the son of Alexander Clement and Julia Washington Blount. On his paternal side he was of English ancestry. The founder of the American branch of the family settled in Virginia in 1669; his mother's ancestry came down through Mr. Lawrence, a cousin of George Washington; and his father was the author of the Civil Code of practice now in use in this state.

Mr. Blount believed in toil and effort, and that nothing of value comes save through labor and struggle. His whole life was lived on this line, and from early life he was intellectually strenuous, and acting and living this theory he largely prepared himself for college and, entering the Sophomore class of Franklin College, University of Georgia, in 1870, led the class from matriculation to graduation in 1872. His scholarship was marked thus early in life by his being awarded the medal for the best essay in the University, in his junior year, over the senior class. After taking his academic degree, he entered the law class of the University, and to support and maintain himself he tutored in mathematics and English. Upon completing his law course and receiving his degree, he returned to his home in Pensacola and entered upon the practice of his profession, being connected with the Honorable Charles Jones, afterwards United States Senator from Florida and a recognized authority upon constitutional law.

In 1878 Mr. Blount was married to Cora N., daughter of Fernando J. Morena. He is survived by his wife, two daughters and two sons.

Mr. Blount believed, with Carlyle, that industry was genius, and the same untiring and unflagging effort that marked his college career was carried into his professional life. Robust, strong and full of life and vitality until long past the meridian of life, his work was prodigious. He was always thorough. Do it well or do it not at all was his motto. His genius touched all departments of learning and gave lustre to endeavor that otherwise would have been uninteresting detail. In whatever engagements his skill and learning were employed, uprightness, integrity, ability and faithfulness were beacon lights that gave strength, force and success to his endeavor. His legal life is written in the decisions of the courts, from the humblest to

the highest court of record; his social life, in the hearts of those who knew him and met him in the daily walk of life.

Mr. Blount was truly a patriot. Notwithstanding his continuous and pressing professional work, he found time to give his labor and splendid intellectual equipment to every work that held out promise of general good or that inade for the benefit of the community or the state.

Mr. Blount had much literary ability and style, and was gifted in the turning of phrases, both in writing and in speaking. He was one of the few men so endowed with logical arrangement of his thought and power of expression as to be able to deliver an address upon a literary subject without committing his thought to manuscript. His mind was so trained and drilled that he could control it, as one might control a mechanical device, commanding and directing it as he desired.

It is unnecessary to go into detail of the many places of trust and confidence held by Mr. Blount. I will mention the fact that he was a member of the Constitutional Convention of 1885; had been a member of the State Senate; was a member of the Commission appointed to compile the statutes of the state; and a member of the committee to remodel the capitol of the state. It is a fact that he refused judicial preferment many times, and I reiterate what I have already stated, that he was President of the American Bar Association at the time of his death, a recognition that we must feel compasses the gamut of professional honors, though it is not amiss to mention in this connection that so great was the trust reposed in him that he was paid the high tribute of being a trustee of one of the largest fortunes ever confided to the care of man.

Mr. Blount was a very domestic man, a very modest man, a man who cared not for shallow plaudits merely for the sake of applause, but highly appreciated recognition if he had produced worthy results. With him it was achievement, and he found more happiness in the sanction of his own heart, if he had really been the instrument of accomplishment for the common good, than in the approval of the multitude without achievement.

Mr. Blount was a temperate, moral, upright man, beautiful in the simple, unostentatious, modest life that he lived, as a husband, a father and a friend, while his brain was an empire quick to scintillate help to the youthful practitioner whose embarrassment of youth

or inexperience moved him to ask for aid. He lived a Christian life and, while not professing the tenets of any particular creed, was broad, catholic and humane, and based his life upon the Fatherland of God and the brotherhood of man.

The sudden death of Mr. Blount has brought forth expressions of sorrow and tributes of regard and respect from all sections of the country, as should be the tribute to every worthy citizen, for surely the greatest asset the state may have is a citizen who may be depended upon to qualify in any and every department of life. Truly the death of Mr. Blount has not been merely a loss sustained by family or by friends. It is a loss common to his country, his state and the nation, and without being unduly laudatory we may say, without disparaging the other great lawyers, that in the history of the lawyers of the state no other member of the bar has climbed to so great a height or so illustrated the profound principles of the profession or gave more of his learnings and accomplishments to the common weal. He was so thoroughly a master of the fundamental legal principles, so familiar with the erudition and history of the law and its practice that we can say without any apprehension or fear of being challenged on the correctness of the statement, that he would have been an ornament to the judgeship of the Supreme Court of the United States, for he would not only have brought to that position an industry seldom found either on the bench or at the bar, but, in our humble judgment, would have written constructions of judicial principles in decisions that would have lived as long as courts are called upon to determine the differences that the fallibility of man from time to time occasion.

In conclusion I wish to say that I hope his life will be a spreading example of usefulness to the bar, not only to remember, but also to follow.

Disputes Between the United States and Spain Over Florida Settled By the Treaty of 1819

By HON. W. W. DEWHURST
Of St. Augustine

Our President has asked me to read a paper on "The Purchase of Florida."

Though the histories so call our acquisition of Florida the true facts are that we seized West Florida from the Mississippi to the Perdido, and brow beat Spain into ceding all the remaining territory by threats to occupy it as a protection to our borders, and indemnity for alleged losses inflicted by hostile incursions from the Floridas.

When we designated our acquisition of the Floridas as a "purchase" we are reminded of what Thucydides said of the Civil War of his time: that to smooth over public vices we give them new and more pleasurable names, sweetening and disguising their true titles.

A comprehensively, and as seems to me truthful account of the acquisition of the Floridas east of the Perdido river has been written by Mr. Hubert Bruce Fuller. His book is entitled *The Florida Purchase*. I could add little to what Mr. Fuller has detailed, and have preferred to prepare an original paper dealing with a phase of our acquisition of the Floridas which has particular interest to lawyers.

As preliminary it may be noted that as far back as the eighteenth century we coveted Florida.

Alexander Hamilton, perhaps the ablest statesman of his time, in 1799 considered the acquisition of Florida "essential to the permanency of the Union." On March 24, 1802, Charles Pinkney, our minister at Madrid, wrote the Spanish minister of state that "the United States, the sincere and firmly attached friend of His Majesty, wish to obtain from him a fair and friendly cession of the Floridas, or at least West Florida, through which several of our rivers, particularly the important river of Mobile, empty themselves into the sea; and from their good friend the French such portion of

Louisiana as will answer the important end that the United States have in view, the securing the navigation of the Mississippi River."

As soon as it was known that, regardless of Spain's protest, Napoleon would cede us Louisiana, the desire to acquire the Floridas remained quiescent—at least the responsible officers of the Government committed no overt acts for several years thereafter.

I shall not even briefly recount the continued aggressions of our citizens upon the territory of His Catholic Majesty, nor the flagrant violations of his sovereign rights by Jackson in West Florida, and by filibusters sailing from our ports in East Florida—but will pass to the subject of this paper.

Although the Treaty of Paris, usually known as the treaty of 1803 was concluded with the French Republic, the disputes which almost immediately arose thereunder were between the United States and Spain, both nations claiming sovereignty over the territory between the Mississippi and Perdido Rivers.

It must be admitted that Spain never yielded her claim of sovereignty over the territory west of the Perdido river, and the United States at first took no actual possession under the treaty of 1803, of any territory east of the Mississippi, except the city and island of New Orleans.

The United States acquired Louisiana by treaty with France in 1803, and claimed under that treaty with France all the territory south of the 31st degree of north latitude, and extending from the Mississippi River eastwardly to the small River Perdido, which lies between Mobile and Pensacola, and was formerly the boundary between the Louisiana colony and the Spanish province of West Florida prior to the Treaty of 1763, by which France ceded to Great Britain her territory of Louisiana, east of the Mississippi.

By the treaty of 1763 Spain ceded to Great Britain her provinces of East and West Florida, which remained under the British Crown until 1783 when Great Britain ceded to the United States all that part of the former colony of Louisiana east of the Mississippi, which lay north of the 31st degree of north latitude, and to Spain under the name of East and West Florida the old Spanish province of Florida, and that part of Louisiana east of the Mississippi south of the 31st degree of north latitude.

After the definitive treaty of peace between Great Britain, France and Spain concluded at Paris on the 10th day of February,

1763, the King of Great Britain by royal proclamation established in the countries and islands ceded and confirmed to Great Britain by that treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada. The boundaries of West Florida as established by the King and his privy Council and proclaimed on the 7th day of October, 1763, were "bounded to the Southward by the Gulf of Mexico, including all islands within six leagues of the coast, from the river Apalachicola to Lake Pontchartrain: to the Westward by the said lake, the Lake Maurepas and the River Mississippi; to the northward by a line drawn due east from that part of the River Mississippi, which lies in thirty-one degrees north latitude to the River Apalachicola or Catahouche, and to the eastward by the said river."

The differences between Spain and the United States as to title to the territory under the treaties of St. Ildefonso and of Paris, arose from the indefinite terms used in reference to the territory of Louisiana and the ambiguity in the language of the treaties, which obscurity has been alleged by high authority and may well be believed to have been intentional.

The cession to the United States of the Louisiana territory instead of being with well-known or well-defined boundaries was made in the terms used in the treaty between France and Spain concluded at St. Ildefonso on the first of October, 1800, in these words: "His Catholic Majesty promises and engages on his part to retrocede to the French Republic the colony, or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and the other States."

The treaty of Paris of the 30th of April, 1803, by which the United States acquired Louisiana after reciting the above article from the treaty between France and Spain, declares that "the First Consul of the French Republic doth hereby cede to the United States, in the name of the French Republic forever, and in full sovereignty, the said territory, with all its rights and appurtenances as fully and in the same manner as they have been acquired by the French Republic in virtue of the above mentioned treaty concluded with His Catholic Majesty."

Peter Lausatt as commissioner of the French Republic was authorized to receive from the government of Spain the Louisiana ter-

ritory promised to be ceded by Spain to the French Republic. On the 30th of November, 1803, he presented his credentials to Don Manuel Salcedo, Governor of Louisiana and West Florida, and to the Marquis de Casa Calvo, commissioners on the part of Spain appointed by the King to make the surrender and received the transfer of the Spanish sovereignty.

In the order of the King to his commissioners and in the act of surrender executed by the Spanish Commissioners the same indefiniteness of description is used, the territory being described as the colony of Louisiana and its dependencies, as also the city and island of New Orleans "with the same extent that it now has" that it had in the hands of France when she ceded it to the Royal Crown of Spain, and such as they should be after the treaties subsequently entered into between the States of His Catholic Majesty, and those other powers.

The French commissioner on the 20th of December, 1803, surrendered the province to the United States in the terms it was received by him, and Governor Claiborn of Mississippi took possession on the same day, by authority of the President, and in conformity to the Act of Congress of the 21st of October, 1803. With truth I think it is contended that Gov. Claiborn took possession of the territory east of the Mississippi River the Island of New Orleans; and that Spain delivered to France on November 30, 1803, nothing on the east side of the river except New Orleans. Early in the year 1804, the United States began to enact laws embracing the territory east of the Mississippi River, and insisted that the whole country originally held by France, which was in the possession of Spain at the date of the treaty of St. Ildefonso was by that treaty retroceded to France, and passed to the United States by the treaty of April 30th, 1803. By the treaty of 1763 France ceded to Great Britain the territory lying East of the Mississippi (except the city and Island of New Orleans) and the territory west of the Mississippi to Spain.

As France formerly owned the territory extending east of Mobile Bay, the claims of the United States were extended over all the territory between the Mississippi and the Perdido rivers, against the protests of the government of Spain.

This disagreement as to the extent of sovereignty of Spain augmented the previously existing desire of this country to acquire from Spain the two Floridas, and soon thereafter this purpose was entered

upon with the aid of France, and after extended negotiations was finally consummated by the treaty of the 22nd of February, 1819.

By that treaty the United States quieted its title to the disputed territory, but neither the Legislative, Executive nor Judicial branch of this government has ever been willing to admit that any right of sovereignty in the lands west of the Perdido River was derived from the treaty of 1819. The contention of each Nation has been maintained with great force of reasoning by the ablest jurists and statesmen.

Mr. Monroe on behalf of the United States sought to gain the support of France to the contentions of this government, but the Marquis of Talleyrand declared positively that by the Treaty of St. Ildefonso Spain retroceded to France no part of the territory which had been held and known as West Florida, but had constantly refused to cede any of the territory between the Mississippi and Mobile, which declaration this government insisted could not effect its rights, being made subsequent to the treaty of St. Ildefonso.

Continuing to occupy the disputed territory after the cession of Louisiana by France in December, 1803, until the year 1810, when a portion was lost by insurrection, and as to the remainder until 1813, when the United States took forcible possession, Spain had during these years granted and sold various parcels of the lands to citizens of the United States and to her own subjects. Being in possession the government of Spain caused the lands so granted to be surveyed, issued to the grantees the title papers in due form and delivered possession of the grants. Meantime these grants were by Act of Congress made a part of the State of Louisiana and the territory of Mississippi and their owners in many cases became citizens of these parts of the United States, the King of Spain at the same time claiming sovereignty over the same territory and subjects.

By the Act of March 26th, 1804, all grants of land made by Spain within the territory claimed to have been ceded by the Treaty of St. Ildefonso after the date of that treaty were declared void.

From the year 1804 until 1810 the claims and demands of this government were not supported by any overt act to enforce them. In the year 1810 revolution existing in Spain, the control of her colonies existing only in name, this government claimed the danger and inconvenience of existing disorder to be so serious that by proclamation of the President dated October 27th, 1810, the United States forces oc-

cupied the disputed territory. This proclamation recited the failure of Spain to deliver the territory eastward of the Mississippi River extending to the Perdido, in pursuance of the treaty of 1803; the continued claim of this government to the same as being within the colony of Louisiana; that the acquiescence of this government to the continued possession by Spain was not due to any distrust of its own title, but was due to its confidence in the justness of its title, and the success of candid discussion and amicable negotiation, with a just and friendly power; that a crisis had arisen whereby a failure of the United States to take the territory into its possession might lead to events contravening the views of both parties; and that the territory in the hands of the United States would still continue to be a subject of fair and friendly negotiations and adjustment; therefore, President Madison declared that "in pursuance of these weighty and urgent considerations, we have deemed it right and requisite that possession should be taken of the said territory in behalf of the United States," and concluded by directing Governor Claiborn, as "Governor of the Orleans Territory, of which the said territory is a part," to take possession of the same and to exercise over it the authority and functions legally appertaining to his office.

The Spanish government was unable to resist the proceedings taken by the United States, but as recited in the President's proclamation the pretensions of both parties did continue the subject of discussion until there was made a final settlement of all differences between the two nations, as it was supposed, by the treaty of the 22nd of February, 1819.

This treaty negotiated by Mr. Monroe as President and John Quincy Adams as Secretary of State after years of correspondence had hardly been ratified before differences arose between Spain and the United States as to the stipulations of the compact.

The second, eighth and ninth articles of the treaty were the source of differences which remained for many years without satisfactory adjustment.

The Treaty is entitled a Treaty of Amity, Settlement and Limits, and recites that the United States and His Catholic Majesty desiring to consolidate on a permanent basis the friendship and good correspondence which happily prevails between the two parties have determined to settle and terminate all their differences and preten-

sions by a treaty which shall designate with precision the limits of their respective bordering territories in North America.

The second article recites that His Catholic Majesty cedes to the United States in full property and sovereignty, all the territories which belong to him situated to the eastward of the Mississippi known by the name of East and West Florida. In the English version of the 8th Article it is stipulated that all the grants of land made before the 24th day of January, 1818, by His Catholic Majesty, or his lawful authorities in the said territories ceded by His Majesty to the United States shall be ratified and confirmed to the persons in possession of the lands to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty, and grants made after the 24th of January, 1818, are declared and agreed to be null and void.

The Tenth Article is in the following language: "The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all differences which existed between them and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects may have suffered until the time of signing of this treaty.

The renunciation of the United States will extend to all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by the French privateers and condemned by French consuls within the territory and jurisdiction of Spain.
3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans in 1802.
4. To all claims of citizens of the United States upon the government of Spain arising from the unlawful seizure at sea and in the ports and territories of Spain or the Spanish colonies.
5. To all claims of citizens of the United States upon the Spanish government filed since 1802.

The renunciation of the Catholic Majesty extends:

1. To all injuries mentioned in the convention of August 11, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, which was fitted out and equipped in New York.

4. To all claims of Spanish subjects upon the government of the United States arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally to all claims of subjects of His Catholic Majesty upon the government of the United States in which the interposition of His Catholic Majesty's government has been solicited before the date of this treaty, and since the date of the convention of 1802.

"And the high contracting parties respectively renounce all claims to indemnities for any of the recent events or transactions of the respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries if any, which by process of law shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American army in Florida."

By the eleventh article the United States undertook to make satisfaction for all the claims of Spanish citizens renounced in the tenth article to the extent of not exceeding five million dollars, to be paid at the Treasury either in money, or in stock bearing six per cent interest payable from the proceeds of sales of public lands in the ceded territory.

That it should be necessary to provide that this government might pay five million dollars in stocks is in striking contrast to the late issue and sale of millions of Liberty bonds.

Under the treaty of 1803 the source of the disagreements between the United States and Spain had been as to the true construction of the description therein given to the province of Louisiana, arising out of the language used in the treaty, namely, that that territory was ceded "with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it

should be after the treaties subsequently entered into between Spain and the other states."

Had the province been ceded or retroceded with the same extent that it had when France ceded it to Spain, or even with the same extent it had before Spain ceded any part of the Floridas to Great Britain, there would have been no ground for controversy.

Upon the ratification of the treaty of 1819, it was assumed that whatever grounds theretofore existed for dispute as to sovereignty over the disputed territory had been removed. The United States now had the undisputed title to the entire strip of territory from the Mississippi to the Atlantic, and it appeared that it could be of no importance whether this title was derived under the treaty of 1803 from France, or under the treaty of 1819 from Spain. The result, however, proved to be otherwise.

Soon after the ratification of the treaty of 1819 those persons who had received grants of land from the King of Spain, in the territory west of the Perdido river, while it continued in the occupancy of Spain, after the treaty of 1803, between this government and France, proceeded to assert their titles in the courts. They based their right upon the second and eighth articles of the treaty of 1819.

It was insisted that by accepting the cession of the Floridas as all the territories belonging to the King of Spain to the eastward of the Mississippi the United States had admitted that their previous contention to the extent of the Louisiana territory derived from France was without foundation, and it was maintained with much support of reason that from the language of the treaty it clearly appeared that the territories ceded were bounded on the west by the Mississippi River.

By the eighth article the United States engaged to recognize all grants of land made before the 24th of January, 1818, by the King of Spain in the territory ceded, and therefore it became at once all important to determine the boundaries of the ceded territory, just as it had been under the treaty of 1803.

Instead of terminating the differences of the two nations the treaty of 1819 only augmented them in respect to the rights of the former subjects of Spain to the lands granted in the territory called West Florida, east of the Mississippi River, the titles to which the interested parties deemed to have been confirmed by the United States in the language of the treaty.

In the first case coming before the court involving the rights claimed under the treaty of 1819 for lands granted in the territory west of the Perdido river the Supreme Court of the United States by the language used in the opinion certainly seemed to give the claimants an assurance of protection. In the case of *De la Croix vs. Chamberlain*, reported in 12 Wheaton, on pages 600 and 601, the Court says: "The United States have never, so far as we can discover, distinguished between the concessions of land made by the Spanish authorities within the disputed territory, whilst Spain was in the actual possession of it, from concessions of a similar character made by Spain within the acknowledged limits." The hopes of the claimants were, however, destined to be soon crushed.

In the case of *Foster and Elam vs. Neilson*, reported in 2 Peters, 253, the same Court refused to give effect to a grant of land made by the Spanish Governor of West Florida in 1804 for lands about thirty miles east of the Mississippi River, on the ground that under the Treaty of 1819 the engagement on the part of this government that all grants of land made before the 24th of January, 1818, in the territories ceded by Spain should be ratified was a contract which the Legislature must execute before it could be enforced by a court.

As to the extent of the territories ceded by the Treaty of 1819, the Court did not make any declaration beyond holding that a question respecting the boundaries of nations was more a political than a legal question, and that the courts of every country must respect the pronounced will of the Legislature.

This decision of the Supreme Court met with most vigorous remonstrance on the part of the Government of Spain, and it was justly declared that if such was the rule of law under the Constitution, and the Law of Nations, then the faith of this Government was pledged to the passage of legislation by Congress for the due execution of the stipulations of the Treaty.

But Congress was never willing to admit that our claims under the Treaty with France were not well founded, and for many years thereafter it refused to enact any law recognizing or confirming the grants made by Spain within this territory.

Meantime the Supreme Court, in the *Arredondo* case, reported in 6 Peters, 691, announced that its construction of the Treaty of 1819 as made in the case of *Foster and Elam vs. Neilson* in 1827 was erroneous. In the former case the Court had held that the language

of the Treaty imported future action by this Government; that the Treaty did not say the grants *are* hereby confirmed, but that they *shall* be confirmed.

The Treaty, as such papers necessarily are, was drawn up and signed in the language of each nation, and therefore the English as much as the Spanish version must be considered as the original language, and neither as a translation. In its opinion in the Arredondo case, delivered in 1832, the Supreme Court adopted the Spanish language of the Treaty, and declared that the grants of land—meaning complete grants to which Royal Titles had been issued—were confirmed simultaneously with the ratification of the Treaty. The Court, however, took occasion to announce that its decision was made dependent upon the special law of Congress referring to the Court the determination of the questions involved, and that if the Court should be called upon to decide on the validity of any Spanish grant not embraced within the special act of Congress referred to, it would feel bound to follow the rule announced in the case of Foster and Elam vs. Neilson, as to the stipulations of the Florida Treaty, that the Legislature must execute the contract before it can become a rule of Court.

Since Mr. Justice Thompson has in a dissenting opinion expressed the same view, it may not be presumptuous to remark that there is no known rule of law that requires a court to reject the language of its own sovereign in the case of a contract evidenced by both the language of the Court and that of a foreign nation, where there is a discrepancy between the two. As suggested by the learned Judge, if Congress should think proper to do so, the power could not be disputed.

After the announcement of the Court in the Arredondo case the remonstrances of the Government of Spain against the failure as alleged of this Government to perform the stipulations of the Treaty of 1819 were vigorously renewed.

The lands in Louisiana and Mississippi had been surveyed, and by proclamations of the President were being offered at public sales as part of the Public Domain.

On the 24th of October, 1829, Senor Don Francisco Tacon, the Spanish Minister, had communicated to Mr. Van Buren, Secretary of State, the request of his Government that the President would urge upon Congress such measures as might be necessary to

cause the rights of the former Spanish subjects in the territory ceded to be respected, according to the eighth article of the Treaty of 1819, and had forwarded numerous protests of citizens against the contemplated sale of their lands as part of the Public Domain.

On the 7th of February, 1832, the House of Representatives passed a resolution calling on the Secretary of State to report the correspondence between Spain and the United States, with his opinion as to the justice and validity of the claims to land derived from the former Government of Spain within the territory lying between the Mississippi and Perdido Rivers.

Mr. Edward Livingston, the then Secretary of State, replied in a communication evidencing great earnestness to maintain the faith of this Nation, and presented with his report the draft of a bill to give effect to the eighth article of the Treaty of 1819. On the 11th of July, 1832, Mr. Wickliff, from the Committee of the House of Representatives upon Public Lands, reported back the communication of the Secretary of State with a vigorous and caustic protest against its recommendations. The Committee in their report say that the scrupulous regard paid by this Government to its engagements with foreign powers had established our character for fidelity and honor; that the Government of the United States had always insisted that Spain violated the Treaty of 1803, and wrongfully withheld territory east of the Mississippi River, rightfully the property of the United States, and the Committee asks "is it now contemplated that we shall retrace our steps and acknowledge that by the Treaty with France the United States did not acquire this territory, a part of which by legislation of Congress has been incorporated into the Union as a State, and admit that all the acts of the Government of the United States in expelling the Spanish power from it were acts of lawless usurpation upon the rights of Spain?"

The Committee declare that they do not concur with the Secretary of State in his opinion, that inasmuch as the grants of land between the Perdido and the Mississippi were all dated prior to January 24th, 1818, were complete in their form, made by the proper officer and for a valuable consideration, and lie in the territory which when in the possession of Spain was by them called West Florida, and are east of the Mississippi, they come within the stipulations of the Treaty of 1819, and express surprise that the officer of the Gov-

ernment having charge of its foreign affairs should admit that the United States had not fulfilled her Treaty stipulations with Spain.

Mr. Livingston had advised Congress that a continued failure on the part of this Government to confirm the grants made by Spain would operate injuriously upon the negotiations then pending to procure indemnity from Spain for injuries inflicted on our commerce. To this the Committee reply, that if we fail to obtain the indemnity sought for the reasons alleged, it would only be a refusal on the part of Spain to do justice on a false pretense; while to confirm the grants would be an admission on the part of the Government of the United States that its acts subsequent to the Treaty of 1803 were violations of the rights of Spain, and it recommended the House to declare that the eighth article of the Treaty with Spain of 1819 had no reference or binding effect upon the grants of land made by the Spanish authorities after December 20th, 1803, lying between the Mississippi and the Perdido Rivers.

As might have been expected, the views of the Committee were more in harmony with the spirit of the popular branch of Congress than the opinion as to our national obligations advanced by the Secretary of State, and Congress refused to take action to confirm the claims to the lands in controversy, and the Land Department continued to treat the lands granted as part of the Public Domain.

After some years Congress, by the act of June 17th, 1844, gave to the claimants, as it was supposed, a right to have their titles adjudicated in the courts, but by its construction of the law the Supreme Court in the case of the United States vs. Reynes, reported in 9th Howard, 127, declared that the act applied only to grants of land legally issued and protected by the Treaty, and the fact that Spain retained portions of the territory considered by the United States as part of Louisiana until 1810, did not authorize grants of any portions thereof by that Nation. The Court reaffirmed its former decisions that the construction of the Political Department of the Government as to the limits of the Louisiana territory must be held binding upon its courts.

While this latter proposition received universal approval as a matter of law, it was deemed by those most conversant with the matter that good faith and justice required this Government to make provisions for the relief of those persons who had acquired what they supposed were valuable property rights within the disputed territory.

Accordingly, in 1858, Mr. Benjamin, as Chairman of the Committee on Private Land Claims, submitted to Congress a bill authorizing the holders of titles to land emanating from any foreign government during the period when it claimed sovereignty, or had the actual possession of any part of the territory of the United States embraced in the States of Louisiana, Florida and Missouri to have their claims adjudicated either by a Commission appointed as provided in the act, or by the Courts of the United States. This measure became a law on June 12, 1860. In the case of the *United States vs. Lynde's Heirs*, reported in 11 Wallace, 632, the Supreme Court declared this act of Congress to be effectual to validate all grants made by the Spanish Government to bona fide grantees of land in the disputed territory while Spain held possession thereof; the Court, however, stating that such validity was derived from the voluntary bounty of Congress, and that such recognition was not to be construed as a recognition of the validity of the claim made by Spain of former sovereignty, nor an admission on the part of this Government of the validity of its title.

Thus, after nearly half a century, a method was found to do substantial justice to the former subjects of Spain and at the same time to preserve the honor of this Nation, and the long continued dispute between the two Nations as to the rights of the claimants to land under the Treaty of 1819 was finally brought to an end.

Although a conclusion was made to the controversy as to land claims by the act of June 12th, 1860, not all the controversy between Spain and the United States arising out of the Treaty of 1819 was ended.

Under the provision of the tenth article, by which the United States obligated themselves to satisfy the claims of Spanish subjects for injuries suffered from the American Army in Florida to the extent of not exceeding five million dollars, Congress, in 1823, had authorized an adjudication of such claims by the Judges of the Supreme Courts of the territory of Florida. A number of such claims were brought before the Judges under the act, and determined and as required by the act the decision of the Judges in each case was referred to the Secretary of the Treasury for his approval and for payment.

To the surprise of the claimants, the Secretary ruled that the language of the Treaty confined the claims for damages to injuries alone done in the year 1818, he holding that the expression, "the late

operations of the American Army in Florida," as expressed in the English version of the Treaty confined its operation to the last operations, although by the Spanish version it was otherwise expressed. A later act of Congress (1834) authorized the Judges at Pensacola and St. Augustine to take jurisdiction of claims for losses incurred in 1812 and 1813, but upon adjudication of these cases and their reference to the Secretary of the Treasury, the Secretary refused to pay that part of the award in the several cases, which was for interest, holding it to be the rule, that the Sovereign was not bound to pay interest upon claims admitted against it, and that the United States was not under the terms of the Treaty liable for interest on the claims. On behalf of the late subjects of Spain it was urged that by the Treaty the United States had stipulated for the ascertainment of the full amount, as well as the validity of the claims; that this Government had required to be paid by Spain and had disbursed to its own citizens interest demanded against Spain and allowed by that Nation; that the Judge had awarded to the claimants interest under an act of Congress authorizing him to adjudge the claims agreeably to the Treaty, and that by the same act empowering the Judge to adjudicate, the Secretary of the Treasury was required to pay the award of the Judge, unless he should deem the claim not just, and not within the provisions of the Treaty, which discretion only authorized the Secretary to reject the award in toto, but not to increase or diminish it.

The contention of the claimants was not without reason, but the several Secretaries of the Treasury, from time to time incumbent, refused to pay any part of the award for interest, and finally the several claimants accepted the principal of the sums decreed by the Judge and made application to the Government of Spain to intercede in their favor, and demand from the Government of the United States the fulfillment of the stipulations of the Treaty of 1819, according to its interpretation by these claimants.

It is generally understood that the several Ministers of Spain have from time to time urged upon this Government the justness of the claims of the former Spanish subjects in the Floridas to the interest awarded by the Courts upon the losses occasioned by the American Army in 1812 and 1813, but that this Government has steadily refused to recognize the claims.

A matter of interest in this connection came to my knowledge by the accidental possession of the original manuscript made by Judge

Isaac Bronson of the claims decided by him, and also those in his office undecided, dated March 27th, 1814.

Although Mr. Adams persistently represented that the amount of our claims against Spain were much in excess of five million dollars, and demanded the cession of the Floridas to indemnify either the claimants, or this Government, if it assumed their payment, the total amount of claims filed with the Judge of East Florida, allowed and disallowed, amounted to only \$1,299,812.

No claims were filed with the Judge of West Florida so far as I know.

When we attempt to justify our violations of the Sovereign rights of Spain by the plea of "Manifest Destiny" we must admit that such a claim has no basis of right. Let me illustrate by a story from the Ancients: Astyages, asking her son, Cyrus, to give her an account of his last lesson, he made answer thus: A big boy in the school, having a short cassock, by force took a larger one from another that was not so tall as he, and gave him his own in exchange. I, being appointed Judge of the controversy, gave judgment that it were best that each should keep the coat he had, for that they were both better fitted now than they were before. My decision, coming before my master, he told me I had wrongly decided, in that I had only considered the fitness of the garments, whereas I ought to have determined according to the justice of the thing, which required that no one should have a thing forcibly taken from its owner.

We are conscious of the military power of this Nation to maintain with arms its contentions, but we ought to be chiefly concerned to secure a willing and universal recognition of the justice of our demands, that we may be accorded a foremost place among the Nations of the Earth in the maintenance of National faith and honor.

The Washington Conference On Legal Education and Admission To the Bar

By HON. W. H. ELLIS
Justice, Florida Supreme Court

Mr. President and Gentlemen of the State Bar Association:

In January Mr. William Hunter of Tampa, Mr. J. C. Cooper Jr. of Jacksonville and I were appointed as delegates from the Florida State Bar Association to attend the Conference of Bar Association Delegates, which was to be held in Washington, D. C., on February 23rd and 24th, 1922.

The Conference was called at the direction of the American Bar Association, which, at its annual meeting in Cincinnati in September, 1921, adopted the following resolutions:

"(1) The American Bar Association is of the opinion that every candidate for admission to the Bar should give evidence of graduation from a law school, complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

"(c) It shall provide an adequate library available for the use of the students.

"(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

"(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the Bar, and that every candidate should be subjected to an examination by public authority to determine his fitness.

"(3) The Council on Legal Education and Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not and to make such publications available so far as possible to intending law students.

"(4) The President of the Association and the Council on Legal Education and Admissions to the Bar are directed to co-operate with the state and local Bar Associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the Bar.

"(5) The Council on Legal Education and Admissions to the Bar is directed to call a Conference on Legal Education in the name of the American Bar Association, to which the state and local Bar Associations shall be invited to send delegates for the purpose of uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles above set forth."

These resolutions embody in the first three paragraphs the opinion of the American Bar Association upon the subject of the legal education that should be required as a prerequisite for admission to the Bar. For many years the subject of legal education has been considered by the American Bar Association.

There has been much investigation and a great deal of discussion upon the subject. The Carnegie Foundation, at the request of the Bar Association, made through Mr. A. Z. Reed an exhaustive study of the subject and the result of his investigations is printed in a large volume entitled, "Training for the Public Profession of the Law," published under authority of the Carnegie Foundation for the advancement of teaching.

The American Bar Association, having definitely arrived at its conclusion upon the subject, directed its Council on Legal Education and Admissions to the Bar to call a conference on legal education to be participated in by representatives from local and State Bar Associations for the purpose of uniting those bodies in an effort to create conditions favorable to the adoption of the principles set forth in the first three paragraphs of the resolutions.

The conference assembled in Memorial Continental Hall in Washintgon, D. C., on Thursday, February, 23rd, 1922. The meeting was called to order by Judge Clarence N. Goodwin. In the

course of his remarks he referred to the fact that at Boston in 1919 a committee from the Conference of Bar Association Delegates, having under consideration the proposition that the State Bar Associations should be incorporated and should be made inclusive of the entire membership of the Bar, while not arriving at any definite conclusion upon the subject, made a survey of the entire field and reported as its conclusion the following: "That the Bar as a whole is composed of intelligent, high-minded, competent lawyers, devoted to their profession, and personally maintaining its high traditions; but that it suffers in reputation from the incompetence, the unfitness and the misconduct of a few, and that it can never attain the place in the public esteem to which it is entitled until it is made self-governing and master in its own house; that the Bar, composed as it is of officers of the court, duly appointed in accordance with law, and in law and in fact officers of the Department of Justice, and therefore public officials, is as much a part of the court as is the Bench; that the Bar, in law and in fact, constitutes a body politic, should be recognized as such, and should be given power to determine the matter of admissions and authority to administer discipline; in short, the power to admit, to discipline, and to purge itself of unworthy members."

It is in recognition of the justness of this criticism that the American Bar Association by the resolutions above quoted warns the profession and through it the people that the interests of society will be better subserved by requiring a reasonably high standard of character and legal training as a prerequisite for admission to the Bar and a condition for exercising the privilege and discharging the duties and obligations of a practitioner than by fixing a low standard in each requirement to make it possible for any one with little or no preparation and less qualifications to exercise the privileges and discharge the duties of an attorney and counsellor at law.

The resolutions were presented to the Conference by Mr. Elihu Root. He said that they were designed to improve the standard of the incoming Bar. Whatever may be the individual views of members of the profession, or of the laity upon this subject, it may be interesting to know that the resolutions were not presented by the American Bar Association until the subject which had been under consideration for nearly a quarter of a century, which had been discussed at each recurring session of the Association, was finally referred to a committee. According to Mr. Root, that committee sent

out questionnaires all over the country to the people who were best fitted to make suggestions, to the heads of all Bar Associations, state and local, to all the law schools and a great number of leaders of the Bar in different parts of the country. The answers were collated and digested. The committee then met again and invited representatives of all sorts of experiences and opinions on the subject to come before the committee and instruct it. The committee then formulated its report, which was adopted by the section on Legal Education and Admissions to the Bar after a full debate. It was then submitted to the American Bar Association, with the result shown in the resolutions presented.

It may be accurately stated, therefore, that the resolutions are the outcome of years of most careful consideration, an exhaustive investigation of the conditions existing at the Bar of America and a realizing sense of the failure of the Bar to discharge its duty to the people and to the state; and of an abiding faith in the profession and hope that it will come into its own, founded upon the determination to be actively aggressive until the time arrives when the people will regard a certificate issued by the state as to a person's qualifications and authority to practice law as a certificate of *honor* and not as many of them regard it now—as license to exploit the public to the holder's financial gain in the name of law.

The discussion which occurred during the two days' discussion of the convention was triangular in character. There were those who were for adopting the standard of legal education as proposed, those who maintained that the standard imposed conditions too severe to be complied with by the poor boy without the means to pay his way through college, and those who contended that there was something un-American, something so incompatible with the spirit of Americanism in the arbitrary standards fixed by the resolutions that the Legislatures of many, if not all of the states would refuse to enact them into law. In other words, the discussions were merely a reiteration of the arguments pro and con upon the standard that should be required for admissions to the Bar that had marked the deliberations of the American Bar Association and its section on Legal Education and Admissions to the Bar for the past twenty-five years.

Notwithstanding the fact that the resolutions adopted by the American Bar Association and brought before the Convention of Bar Association Delegates, delt in the first three paragraphs with the

opinion of the American Bar Association upon the standards that should be required for admission to the Bar and the method it proposed to use in bringing about the adoption of that standard by the law schools of the country and the state and local Bar Associations, a proposition which neither discussion nor vote by the delegates of the convention could in any wise modify, the discussions continued by lawyers of first rate ability and educators of National reputation unabated for two days.

Mr. Root, Chairman of the committee which prepared the resolutions, in his opening address pointed out the fact that the convention had little or nothing to do with the opinion, and expressed the hope that the delegates to the convention then in session would range themselves by the side of the American Bar Association to give effect to the opinion expressed in the resolutions.

According to the resolutions submitted, the Convention of Delegates was called for one purpose only, and that was to devise ways and means for "uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles" set forth in the resolutions.

There was no discussion upon that proposition. Yet it seemed to me to be the sole purpose for which the convention assembled. The American Bar Association had adopted a standard. It was of the opinion that the desired results could with more reason be expected to follow by adopting that standard than by any other means. So the delegates were asked to try and get the various local and state Bars united in an effort to create conditions favorable to the adoption of the plan. The reasonableness of the requirements must be made to appear to the agency of the state government, which prescribes the conditions upon which any one desiring to practice law may obtain a certificate. Different methods obtain in different states. The Legislature prescribes the qualifications in some states, the courts in others and the Bar controls the admissions through examining committees in others. It was desired that the local and state Bars throughout the United States should unite in an effort to bring about a public sentiment demanding the adoption by the appropriate state authority in each state of requirements for admissions to the Bar that would meet the standard proposed.

The proposition upon its face seems impracticable. How can there be any unity between the Bar of Florida and that of any other

state in any such activity? The only point upon which there could be any unity is the one that two years' college work and three years' technical instruction should be required, but what aid any other state could give to Florida in making that truth apparent to the Legislature of this state is by no means clear.

The discussions, however, were interesting in that they showed practical unanimity upon several propositions, viz:

(1) That the Bar by reason of the character of duties which its members are called upon to perform is more nearly related to governmental activities than any other class of citizens.

(2) That the state is primarily interested in requiring a high standard of character and education in the members of the profession.

(3) That the duty which the Bar owes to the state is to maintain the highest standard of character and learning on the part of its members.

(4) That in this regard the Bar is not functioning properly.

(5) That a certificate issued by state authority to any person authorizing the holder to practice law raises no presumption in the minds of the people that the holder is qualified either in point of character or ability to be entrusted with business.

(6) That the time has arrived when the duty of the Bar is imperative to place its own house in order.

I ask your indulgence while I quote some of the words used by several of the speakers who addressed the convention.

Mr. Clarence N. Goodwin, Chairman of the Conference of Bar Association Delegates, in his opening address said: "We affirm that we believe in equality before the law. But how can equality before the law be possible when the rich and powerful are represented in court by highly educated, thoroughly trained and most competent members of the profession, while a large part of the poor and ignorant, who frequently find themselves in court opposed to the more fortunate, are so often represented by ignorant, untrained and incompetent men, who have through the laxity of our methods been commissioned by the state with authority to counsel and advise and represent them."

Mr. Elihu Root said: "That there is trouble I think every one of us feels. It may not be trouble in this particular county, in this

particular Bar, in this or that state, but it is trouble in so large a part of the Bar that it affects the whole Bar." Speaking of unfavorable reports as to delays of the courts, the sacrifice of client's interests, sending back cases for new trials, notwithstanding their merits owing to errors committed by incompetent or careless and inefficient lawyers, he said: "Those reports have been coming from all over and they have blackened the name of the Bar. They have led the public to observe the manifold defects of our administration of justice, its delays, its technicalities, its repeated and oft repeated appeals and reviews, its long delays, which prevent the honest man of modest means from getting his rights, while the rich man with abundant income, and the sharper, with subtle and adroit ingenuities, can put off indefinitely the granting of justice. That is the charge against us, against you and me; and worse still, it is a charge against our free institutions that is sapping the faith, the confidence, the loyalty of the millions of people in this land in those institutions."

Mr. Chief Justice Taft said: "We have to deal in laying down rules for the required preparation for a profession, with the average man who wishes to practice it, in order that society may be served in a most important capacity by competent practitioners. We should not be governed in laying down such rules by the needs or ambitions of those who would become lawyers. The safety of society and their useful aid to society are the prime considerations."

Speaking of the standard prescribed by the American Bar Association, he said that there was nothing aristocratic or exclusive about the policy; that when a man was sick he naturally secured the services of the best doctor he could obtain; that likewise when a man needed a lawyer he naturally sought the best one he could obtain and that the rules for preparation for the profession of the Bar are for the purpose of making it more likely that one can find a well prepared lawyer, and making it less likely that one will hazard his important interests by placing them in the hands of a man who practices law but who may not know how to protect them as a competent lawyer would.

Mr. Samuel Williston of the Harvard Law School said that "no lawyer can be efficient now who has not some ability to use books and extract from them quickly and accurately the principles which they state."

Governor Samuel M. Ralston of Indiana said: "Admission to the Bar is often perfunctory and signifies no particular preparation

for the practice of the law. This is not as it should be. A standard for admission to the Bar, showing a liberal preparation to practice law, should be maintained by each of the states, but such a standard should be satisfied when it discloses the requisite ability for the practice of the law, without regard to how that ability was acquired."

The thought suggested by Governor Ralston seems to me at this time to be the most practical one but the function of passing upon the qualifications of the applicant should not be left to officials of the state who by any possibility can be influenced by political considerations in the discharge of their duties.

Ex-Governor Herbert S. Handley said that law schools should not be maintained for the production of lawyers but the question should be placed on a much higher and controlling theory. That is, on the theory of the welfare of the profession and the proper administration of justice in the courts. He referred to the political conditions which existed ten years ago, and said that the paramount issue in American politics was the relation or attitude of the American people toward their courts and that it found expression along two lines: "First, for the failure of the courts to properly administer justice in ordinary civil and criminal cases; and, second, upon the ground that the courts by their reactionary positions in the decisions of questions involving social and industrial justice were defeating the will of the majority in the enactment of laws for the regulation of those questions. The dissatisfaction upon this latter ground became so pronounced that it constituted one of the leading causes for the organization of a great national party." And then he quoted the language of Judge Taft, who in a public meeting said "the administration of criminal justice had practically broken down of its own weight, and that the administration of criminal law in all of the states of the Union, with one or two exceptions, was a disgrace to our civilization."

Governor Hadley said that he believed that no statement of any public man in the last fifty years upon a non-political issue attracted such attention or has been so often quoted as that strong indictment of our judicial system by Chief Justice Taft. He pointed out that prosecutions in the United States Courts had increased from 9500 in 1912 to 70,000 in 1921, and in 1921 the property loss by reason of thefts from public transportation companies reached the immense sum of \$100,000,000.

Governor Hadley spoke of the work of the medical profession and what they have accomplished in the correction of their conditions and it shows what can be accomplished by men who know what they want and are determined to secure it.

Mr. Silas Strawn of Illinois said: "To meet the requirements of the modern captain of industry, the lawyer must not only be more familiar with the general principles applicable to the business of the client than is the client himself, but, in addition, he must bring to the solution of the many problems with which he is daily confronted a broad, general knowledge of what is going on in business, political and financial affairs not only in our own country, but throughout the world." He said that no one can deny that a "cheap lawyer is an expensive luxury."

Mr. James B. Angell, President of Yale University, said: "It is a common saying at the present time that no intellectually competent lad, who enjoys moderate physical health, need be disbarred from a collegiate education if he is really eager to secure it. I think this statement is wholly inside the facts, although it perhaps suggests a smoother path than often lies before the impecunious boy, particularly if he does not enjoy the gift for making friendships and in general gaining the confidence and regard of those among whom he is thrown."

Mr. John Lowell of Massachusetts said that he had been Treasurer of the Harvard Loan Fund for twenty-five years and was convinced that "at Harvard, at any rate, we can help the poor students in their efforts to obtain a two years' college course."

Mr. Maurice Wormser of New York said: "We can raise our standards only in one way—by having our Legislature pass an act that two years at college shall be required for admission to the study of the law. We must do that. Unless we do it the Bar is going to be swamped. We have to be saved from ourselves. The situation in the great cities is intolerable."

Mr. J. Nelson Frierson, representing both the State Bar Association and the Law School of the University of South Carolina said that from his experience it did not seem to him "that there is any logic whatever in this argument about the poor boy being shut out. It seems to me that the argument that rights of the individual are su-

perior to rights of society today is not entitled to any notice whatever. Society is entitled to be protected against the inefficient and incompetent lawyer."

Mr. J. Zach Spearing of Louisiana said: "You look at these members of the profession that are debasing it, that are not up to the standard, who are pettyfoggers, and you find that they are the men who have gone through a Bar examination before a committee, because they had not the educational qualifications to go to college, or they are men who have gone to a college of low standard and they have never been imbued with higher ideals of the profession."

Mr. William G. McAdoo said: "The responsibilities of the lawyer are so grave and the function he performs is so vital that the value of the highest moral and ethical standards cannot be exaggerated. And those same responsibilities make it imperative that his professional education shall be so thorough that he will be equipped in the highest degree to discharge those responsibilities when he comes to the Bar."

Mr. James Byrne of New York said that to allow men to become lawyers without the proper preliminary training is unfair to them.

Mr. George E. Price of West Virginia referred to the conditions existing many years ago when young men were trained in lawyers' office for admission to the Bar and showed how they had the benefit of precept, example and instruction by the lawyer with whom they were connected, but that times have now changed and the modern lawyer has neither the time nor the inclination to devote the attention to the young man in his office necessary to equip the latter for the practice of law. That he has little time for anything else during his office hours except business, that is, if he is a competent lawyer and has attained any responsible success in his profession. That as a result of this condition law schools have sprung up in almost every state in the country and young men are gathering there to study the law under highly trained and educated instructors specializing in the various branches of the law.

Senator Charles S. Thomas of Colorado expressed the belief that the Legislatures of the different states would never crystallize the principles announced in the resolutions into law because he thought that such legislation would bar the door to opportunity to those who, by reason of industrial or economic conditions, poverty or dependence

of others upon them, were unable to comply with the requirements but he said that the standard of ethics should be raised, and was in favor of the most "drastic" regulations seeking to confine admission to the Bar to men and women of high repute and good moral character. "There is where laxity exists and that laxity should be corrected. A man should not be permitted to present certificates from obligating friends to show that his character is good and his morals unquestioned, but he should be subjected to a searching examination, both personally and by reputation. That is the way to raise the standard of the Bar, and even then it would be impossible to keep out a great many unworthy members who creep into every profession, however great or however low."

Many other distinguished gentlemen spoke to the resolutions, and while they seemed to agree upon the points I have enumerated, there was considerable diversity of opinion upon whether a college education as a prerequisite to the study of law would accomplish the desired results. All seemed to be of the opinion, however, that good moral character coupled with sufficient preparation in law was indispensable to the maintenance of a high standard in the profession and for efficient service to the community and that the community was more interested in this proposition than the Bar could be. Some of them expressed the opinion that more money was actually wasted yearly through dishonesty and inefficiency at the Bar than was sufficient to pay the educational and technical training of every young person in the United States who would come to the Bar in the next twenty-five years.

During the morning session of the second day Judge Goodwin, in behalf of the committee from the American Bar Association, offered the following resolutions:

"Resolved, That the National Conference of Bar Associations adopt the following statement in regard to legal education:

"1. The great complexity of modern legal regulations requires for the proper performance of legal services lawyers of broad general education and thorough legal training. The legal education, which was fairly adequate under simpler economic conditions, is inadequate today. It is the duty of the legal profession to strive to create and maintain standards of legal education and rules of admission to the Bar

which will protect the public both from incompetent legal advisers and from those who would disregard the obligations of professional service. This duty can best be performed by the organized efforts of Bar Associations.

"2. We endorse with the following explanations the standards with respect to admission to the Bar, adopted by the American Bar Association on September 1, 1921:

"Every candidate for admission to the Bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

"(c) It shall provide an adequate library available for the use of the students.

"(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

"3. Further, we believe that law schools should not be operated as commercial enterprises, and that the compensation of any officer or member of its teaching staff should not depend on the number of students or on the fees received.

"4. We agree with the American Bar Association that graduation from a law school should not confer the right of admission to the Bar, and that every candidate should be subjected to examination by public authority other than the authority of the law school of which he is a graduate.

"5. Since the legal profession has to do with the administration of the law, and since public officials are chosen from its ranks more frequently than from the ranks of any other profession or business, it is essential that the legal profession should not become the monopoly of any economic class.

"6. We endorse the American Bar Association's standards for admission to the Bar because we are convinced that no such monopoly will result from adopting

them. In almost every part of the country a young man of small means can, by energy and perseverance, obtain the college and law-school school education which the standards require. And we understand that in applying the rule requiring two years of study in a college, educational experience other than that acquired in an American college, may in proper cases be accepted as satisfying the requirement of the rule, if equivalent to two years of college work.

"7. We believe that the adoption of these standards will increase the efficiency and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice. We therefore urge the Bar Associations of the several states to draft rules of admission to the Bar carrying the standards into effect and to take such action as they may deem advisable to procure their adoption.

"8. Whenever any state does not at present afford such educational opportunities to young men of small means as to warrant the immediate adoption of the standards we urge the Bar Associations of the state to encourage and help the establishment and maintenance of good law schools and colleges, so that the standards may become practicable as soon as possible.

"9. We believe that adequate intellectual requirements for admission to the Bar will not only increase the efficiency of those admitted to practice, but will also strengthen their moral character. But we are convinced that high ideals of professional duty must come chiefly from an understanding of the traditions and standards of the Bar through study of such traditions and standards and by the personal contact of law students with members of the Bar who are marked by real interest in younger men, a love of their profession and a keen appreciation of the importance of its best traditions. We realize the difficulty of creating this kind of personal contact, especially in large cities; nevertheless, we believe that much can be accomplished by the intelligent co-operation between committees of the Bar and law school faculties.

"10. We therefore urge courts and Bar Associations to charge themselves with the duty of devising means for bringing law students in contact with members of the Bar from whom they will learn, by example and precept, that admission to the Bar is not a mere license to carry on a trade, but that it is an entrance into a profession with

honorable traditions of service which they are bound to maintain."

After some discussion upon these resolutions during the afternoon session I offered the following resolution:

"Whereas, A reasonably high standard of character and literary and technical training should be required of all persons desiring to practice the profession of law in the United States, and

"Whereas, The subject is one with which the Bar of each state should deal through its own organization as an instrumentality of the state; therefore

"Be It Resolved, That the State Bar Associations represented in this convention pledge themselves to such activities in their respective states as may lead to the enactment of such legislation as shall vest in the Bar of each state the power to prescribe such qualifications for admission to the Bar as may be deemed suitable."

In opposition to the resolutions offered by me, Mr. Root took the floor and said that my resolution was wholly ineffective to cure anything; that it was just such as the American Bar Association had had before it for many years before it finally came to a concrete conclusion which, if adopted, would accomplish something; and that most of the opposition to the resolutions that had been proposed by Chairman Goodwin simply reflected the natural reaction of a man who dislikes to have the old traditions of his life interfered with by somebody else.

At the conclusion of a very dramatic appeal by Mr. Root the resolutions offered by Chairman Goodwin were overwhelmingly adopted. Notwithstanding the action taken by the convention, I am still of the opinion that the resolutions offered by me suggested the most practical way for the accomplishment of the results desired by the American Bar.

The resolutions admitted the necessity for the possession by all persons desiring to practice law of a reasonably high standard of character and literary and technical training which seemed to be the consensus of opinion of all the delegates represented in the convention. But that the subject is one with which the Bar of state should deal through its own organization as an instrument of the

state seems to me to be indisputable and that in order that the State Bar Association may enforce the standards required it seems to me indispensable that the people of the state should understand and know the reason for this action and that its sole purpose is not to create a close corporation of lawyers but to secure in the service of the people that high standard of integrity and efficiency which is so essential to the interests and the welfare of the community. Each state Bar must deal with the question according to the conditions existing in each state, and while they work independently in each jurisdiction the common end to be attained is the same.

Much was said during the convention about the manner in which the medical profession had put its own house in order. Dr. William H. Welch of Maryland, director of the Department of Hygiene and Public Health of the Johns Hopkins University, read an excellent paper on certain problems affecting medical education and the methods which had been adopted by that great profession in elevating its standards.

Mr. Hampton L. Carson, Ex-President of the American Bar Association, introduced Dr. Welch. He said that some ten or twelve years ago when he was in London and exploring some of the old book stalls along Holywell Street he picked up a little pamphlet of about seventy pages, printed in London in 1790, which was some years after William Penn had obtained his charter for Pennsylvania. The pamphlet contained an account of "Ye Flourishing Province of Pennsylvania," and the writer, after speaking of the butchers and bakers, and the brewers and the jewelers, and the masons and carpenters, said, "of doctors and of lawyers I shall say nothing, because the place is very peaceable and healthy," and then added the pious prayer: "Long may we be preserved from the pestiferous drugs of the one and the abominable loquacity of the other."

Mr. Carson said that the first Speaker of the Provincial House of Assembly in Philadelphia was Dr. Thomas Wynn; that the doctors and lawyers had a sort of neck and neck race for some time, but the lawyers gradually forged ahead, owing to the circumstances that the doctors introduced the practice of phlebotomy, a practice which consisted of bleeding everybody who was attacked by any kind of malady, and now, in some mysterious way, "there is a popular impression that the gentle art of bleeding has passed from the medical to the legal profession."

Efficiency of the Law School in the Training For the Legal Profession

By HON. R. S. COCKRELL
Of the University of Florida Law School

President, Fellow Lawyers, Ladies and Gentlemen:

I appreciate the fact that my branch of our profession has been recognized by this Association as a most important branch. My young friend who has just preceded me has so absorbed your minds by his eloquent address that I am afraid it is difficult now to get any reaction on your part, but I want to tell you, that while I was on the bench, I realized so keenly the need of a better educated bar in this state that I brooded over it, and six years ago the people of the state gave me an opportunity to go into that line of our profession. As I told my friend, Nat Bryan, the other day, whom the people of the state gave at the same time the opportunity for different service, that he had been promoted from the United States Senate to judgeship, but that I was one ahead of him; I was promoted from judge to professorship.

Now, the things being most emphasized these days by the bar are: Character, willingness to work, ability to work, knowledge of the law and the ability to put it over. In these days I think everyone will say, the law school is the best way to become a real lawyer, but let me give you a few thoughts in regard to the training in those four directions.

Now, first, character. One of the strongest arguments, I think, for this requirement, is two years of college work. That was not emphasized at Washington as brought out by one of the men, and it is a fact that on the college campus character is developed. Now, they say, of course, "poor boys can not go through college, that it is the place for the idle rich—well, the college campus is no place for the poor boy!" I say right now that poverty is of two kinds, poverty of money, and poverty of character. As far as poverty of money goes, that can keep no one from acquiring a college education today. Self help is ready everywhere; anybody that wants to can get the col-

lege education: the thing needed is the will. But poverty of character is something that will keep him out. If he has not the will to get it, his character will keep him out. A lawyer has got to have an education superior to the people that come to him for advice, and that you acquire these days only through a college. I am not talking about the old days when you and I were young, but right now! Now this process of character is developed on the campus under the management and association of ideas. There is very little idealism in outdoor life, in the hurly-burly of bread-making, but it does flourish on the college campus. There it is you learn that honesty is the best policy; you easily find that you decline the other way; that is the only way you will succeed on the college campus. If they find a yellow streak in you, you are going to overcome that yellow streak or you will leave.

Now that character is developed in another way. The lawyer does not try these tricks just because he wants to, he does it because he feels that is the only way he can win. If he could win honestly he would, and you find generally the trickster at the bar is the man who does not know the law.

Now at the law school we try to teach the law. You can get the law now only from a lawyer, that is admitted practically anywhere. We have parties admitted to the bar right along other ways, but I never could see how a man could learn real common law pleadings except from a master. In fact, I have found very few lawyers in the bar who knew anything about those subjects who had not been under some master. I do not claim to know it all, but I do know something about that. I was under a master of masters under those subjects at the University of Virginia. He taught those two subjects, in fact those two subjects alone: Common law pleading and realty law, and he was a man fairly well up on those subjects.

I can not understand how you can get that, unless you are under a man that digs deeper than the ordinary man and can explain those things. I think most of our minds resist "that is so because I tell you so!" You have got to know the why, if you are going to be a lawyer. And you can get that, not by reading the printed page. The author cannot go in and solve all your difficulties. It may have been simple to him, and he did not need a reason. How can you get it? It is up to you! Now the college professor tells you that you

can come back and ask him why. And remember this. Who can be a professor in one of the standard law schools of the country now—what are the requirements? They require: First, that that man must have an academic degree from a standard institution; second, he must have a law degree from a standard institution; third, he must have had a successful practice at the bar for a number of years, or else have taught elsewhere successfully for the same length of time.

That is all required before a man can teach in any of the law schools of this country. That means you can't be a professor in a law school of any status of this country without preparation. There may be some like myself. I was on the bench so long the practice of the law did not appeal to me, and besides, I was so impressed of the need in this state for the education of the boys in the university.

Now I come down to a more personal proposition: In the old days the law school man had some theory, but never knew how to apply it! Now we try to so train the boys that when they leave the law school they can at once go out and practice their profession. He is not going to be handicapped. You give a young lawyer just out of the law school these days a note and tell him to attend to it, or tell him a man is going to run off and to attach something, he knows how to attend to those things right now. Again, in these days nearly all states have their own law schools, and in that way the law of that state is taught. Now I know many of you here have had trouble finding out what the laws of Florida are on given subjects. We have no Digest to enable you to find it, you have simply got to know it, that is all. If it is away back there in 16th Florida, or 27th Florida, that a certain point is decided, you have to remember it, or you have got to look it up. That is the only way I know to know Florida law. A large number of them that came to Tallahassee did not know what Florida had decided, but knew what Maine and California had decided. That was a big mistake.

At the university we specialize on a certain line: I teach one branch of law, others teach other branches, but each one of us can at least so far as our little narrow part of the subject is concerned, master what the Supreme Court of Florida has said on that subject, and give it to all our boys so that they have at least had an opportunity to be taught what the Florida Supreme Court says on the subject.

Now, Judge Ellis has told you what the American Bar Association wants of the law schools of the country, and how they proposed to divide them into Classes A, B and C and that sort, but so far as that goes you need not fear not to be in Class A. I wonder how many of you know that in New York they have a way of dividing the law schools of the country. They have a law there that before you can be admitted to practice there you must have had three years of a law school approved by them. Now they have gone throughout the country and classified the various law schools throughout the states. In the South there are three law schools that they recognize in every respect as standard, and those schools are the University of Virginia, University of Tennessee and the University of Florida. Now, despite that fact, we find (I do not know that this ought to go out for publication right now), but we find our fathers sending off their sons and their friends to sub-standard schools in the North.

Take an old school like Washington-Lee, the University of Carolina, Vanderbilt, University of Georgia, and all those schools, they are standardised way down, as far as Class A is concerned. We are classified with Harvard, Columbia and University of Virginia, etc.

So we have it here, and I want to start a little propaganda among this bar for this school with which I am associated.

Now there is no trouble of filling our classes right now. New York is sending more students to our law school than Jacksonville or any city in Florida. They have found us out up there, but here in Florida you have not found us!

I want you to know that one of the objects I went there for is to see if we can develop our bar and make it what we all want it. We are there at that school and there all day long, from 8:30 in the morning until 5:30 in the afternoon. My door is never closed, and the boys are there talking to me all the day long.

Now, these schools in the North have bigger men and more reputation, but the classes are so large you can't get that close contact. I like to keep the classes down in our school so we can have that personal contact. I do want our Florida boys to come there—I don't mind talking shop, for I know most of you real well, and I don't mind—but let me say that we are giving sufficient instructions to prepare our boys to go out and practice; and another thing, I want

you to help us. They can go right in the office. As Nathan Bryan remarked at a banquet at the university the other night, he said he noticed that some eight or ten years ago whenever he got a young man from a law school he was a drag or liability for a year, but that now, as soon as he got a boy from the University of Florida, when he came in and hung up his hat he could put him to work and know he would be efficient. Our boys learn how to find cases. They can find a case in one-tenth the time you can. That is one of the practical things they get. They are ready to go in and are efficient, and they realize that the professors are all sacrificing themselves to be there. Every one of them practically have had much larger offers, but we love that place, we believe Florida needs us, and we believe we are doing good for the state. I can say I believe I am doing far more good there than I ever did on the bench.

Statutory Infringement On Common Law Pleading

By HON. L. C. MASSEY
Of Orlando

The President of this Association has asked me to read a paper on "Statutory Infringement on Common Law Pleading." This subject might open up a wide field for discussion. It might include a discussion of the respective merits of common law and of code pleading, or it might carry us far into the history of the past, for the common law system has been amended by statutes through many centuries. For the present purpose, however, it will be confined to the common law system in this state, as modified chiefly by Chapter 1096, Act of 1861, in the usual personal actions, and will exclude all extraordinary and all statutory remedies.

Down to the year 1875, when the English Judicature Act was passed, this state followed closely the English pleading and practice. The rules of practice of Hilary 4, Will. 4, which confined the operation of the general issues strictly, were adopted by our Supreme Court at or shortly after its organization in 1845. Whether they were an inheritance from the Court of Appeals of the territory I have no means of knowing. And here let me digress to say that it would be a laudable act on the part of the state to provide for the collection and publication of the decisions of the old Court of Appeals, which would not only serve to illustrate the growth of our law, but would give us the contemporary construction of old statutes, many of which are still in force.

The English Commissioners on Common Law Procedure reported in 1851 with the result that the Common Law Procedure Acts of 1852 and 1854 were enacted, embodying many of their suggested amendments. The Legislature of Florida in 1861 adopted whole sections of these acts verbatim, and some with slight changes, by the enactment of Chapter 1096, and the common law, so modified, is the basis of our pleading today. England has since adopted a different system.

Let us briefly examine some of the merits and the demerits of the Common Law Procedure Acts. Their object was commendable, i. e. to reduce pleading to a clear and concise statement of facts, thus making up an issue of law or of fact, promptly, which object in this state, due to certain inherent vices in the act hereafter mentioned and to the carelessness of the profession, has conspicuously failed.

The Commissioners recognized that we had passed the stage of social progress when law is ameliorated by legal fictions, and consequently abolished such statements as of losing and finding in trover and express promises which were proved only by the obligations to perform a legal duty, and the like. They also abolished immaterial statements of time, quantity and value, and prescribed the laying of venue at the head of the pleading, instead of repeating it after every material allegation in the body of the pleading. They likewise abolished the worn-out doctrine of express color, special traverses, and the profert of deeds or documents, some of us think in the latter case, not to the advantage of a logical system.

The formal commencements and conclusions of pleas and replications and prayers for judgment were likewise done away with, but the most important changes, those which have caused confusion and delay in our practice, were the confining of demurrers to matter of substance only, the abolition of special demurrers, the creation of motions to strike or for the compulsory amendment of pleadings which tended to embarrass and delay the fair trial of a cause, and the wide liberty of amendment.

It often happens in life that when restraints are partially removed the persons affected at once assume that the relaxation has been total, and that they are at liberty to disregard all rules. Such was the immediate effect of the enactment of the Common Law Procedure Acts in England. The learned editor of the Seventh English Edition of Stephen on "Pleading" says in his preface:

"The notion has extensively prevailed that a statute which was passed with no other object than that of correcting certain acknowledged defects in the system of pleading has had the effect of abolishing the system altogether and that consequently the study of its principles has ceased to form a necessary or even useful part of professional discipline. The opposite opinion, however, is supported by high authority," including, I may add, our own Supreme Court.

That many lawyers in Florida have the same notion is, I suppose, attested by the files of every Circuit Court in the state.

The causes are not difficult to find. With the abolition of the old stately and formal commencements and conclusions of pleadings and the accurate statements whether they were intended to be by way of traverse or of confession and avoidance, the average pleader was inclined to think that he need not treat the material facts in his pleading with any great care, more especially since he might rely on leave to amend, as he usually could with the Circuit Judges. But the statute only provides for amendments "if duly applied for," and, in my opinion, amendments ought to be allowed only when good cause is shown why the matter could not have been sooner pleaded, and after two amendments, only a threatened miscarriage of justice should warrant a third. In every other profession the individual who employs an unskillful practitioner suffers the consequences of his act, and if a client employs an unskillful pleader, justice to his adversary requires that litigation should not be expensively prolonged.

In the note to *Taylor vs. Cole*, 1 Sm. Lead, Cases 1347, the learned editor says:

"The accurate statement of such of the facts and circumstances of each case as are necessary to enable the plaintiff on the one hand to establish his entire cause of action, and the defendant on the other to set up his entire defense, is still an essential part of the duty of counsel; and that, although a final defeat of justice, upon merely formal grounds, may be averted by the provisions already referred to, *no legislative enactment* can in all cases prevent the expense and delay which result from the necessity for amending untrue or imperfect narratives of the facts relied on by the respective parties. Such inconveniences are to be avoided by taking care in the first instance to make the pleadings true and perspicuous, adopting the known and understood formulas used for the sake of brevity in cases of frequent occurrence, and where there is no such formula stating the material facts as they can be proved to exist in intelligible language."

Permit me to supplement this by a quotation from the "Essay on Pleading," by Mr. Evans of the Baltimore Bar, published in 1827:

"Every person who is conversant with our courts of justice must have seen in others evidences of a disgust, in which he could scarcely

avoid participating, when a case which had been tried nearly or quite through has been continued to give opportunity to one of the counsel to amend his pleadings. The odium of the postponement falls generally upon the system of special pleading. But in truth and justice it belongs to the doctrine of amendment * * *. A very little more care would enable the counsel to make a statement which would not vary from the testimony he was prepared to adduce * * *. The attention necessary to guard against such defects would be given were the resource of an amendment after issue joined cut off. It would, therefore, seem but reasonable that no amendment should be made after a juryman is sworn."

It is only fair to say that the amendment section of the Common Law Procedure Act is not in itself bad, except insofar as it has encouraged the practitioners to ask and the courts to allow amendments at all times, at all costs and delay to the adversary, and this frequently without any showing whatever.

But the main vice of the Act of 1861 lies in the section abolishing special demurrers, providing for motions to strike and compulsorily amend pleadings and in confining demurrers to matters of substance only.

At common law there was but one kind of demurrer—a general demurrer specifying no causes and reaching both matters of substance and matters of form. The causes were assigned orally at the argument. The form was: "And the said (plaintiff) says that the said (plea) is not sufficient in law." There was one exception: duplicity had to be assigned specially at common law (1 Chitty, Pleading 694). But by the statutes of 27 Eliz., Chap. 5, and 4 Anne, Chap. 16, both of which were in force in Florida, the judges were required, upon demurrer joined, to give judgment according as the very right of the cause should appear to them, notwithstanding any imperfections, omissions or defect in any process or pleading except those only which the party demurring should specially and particularly set down and express, together with his demurrer, as causes of the same, *provided* that sufficient matters should appear in the pleadings upon which the Court might give judgment according to the very right of the cause.

Demurrers for matter of form became known as "special demurrers" and the operation of the general demurrer was confined to matters of substance. However, on a special demurrer the de-

murrant could take advantage of defects of substance, though not specified, as well as of the defects of form pointed out (1 Chitty, Pleading 696).

In 1847 our Supreme Court by rule prescribed that in any demurrer some matter of law intended to be argued should be stated, but the demurrer had the right to argue other matters of law of which he should have given notice to the Court, probably by handing up a statement of them with the pleadings.

This method of taking advantage of defects, whether of substance or of form, was much superior to the practice substituted by the Act of 1861. Apparently it needed amendment in but one particular—requiring all the causes of demurrer to be stated in the demurrer itself, according to our present practice in demurrers to the substance. *Hartford Fire Insurance Co. vs. Hollis*, 58 Florida, 268. However, the Legislature in 1861 adopted substantially Sections 50, 86, 51 and 52 of the English Common Law Procedure Act, now appearing in slightly modified forms as Sections 2638, 2641, 2627 and 2630 of the Revised General Statutes which confine the operation of a demurrer to matters of substance only, abolish special demurrers, and substitute for them motions to strike out or for compulsory amendment.

Thus the old system was swept away, and for it was substituted one which, while intended to simplify, has confused pleading and practice, overloaded the records unnecessarily, and in the language of the statute, has itself tended to "prejudice, embarrass and delay" suitors and the courts by expending on questions of practice, time and effort which ought to have been used in ascertaining "the very right of the cause." In many cases a party will both demur and file a motion under the statute when any doubt exists, as it frequently does, whether the matter objected to amounts to matter of substance or of form. A demurrer, a motion to strike and a motion for compulsory amendment, all directed to the same pleading, are not infrequent. The Supreme Court has said in *Parkhurst vs. Stone*, 36 Florida, 456, and subsequent cases, that there is a clear distinction between the function of a demurrer and of a motion to strike out or amend, but the Court has also admitted (*Southern Home Insurance Co. vs. Putnal*, 57 Florida, 199) "that a critical examination and comparison of all the opinions of the Court bearing upon the question dis-

closes that, while it has been uniformly recognized that there is a difference in the functions performed by a motion to strike out a pleading and a demurrer thereto, and that they cannot be used interchangeably or indiscriminately, the line of demarcation between the two has not always been kept clear, but at times has been shadowy and wavy. This has rendered it difficult at times to determine in some cases whether a demurrer or a motion was the proper method of attack." In the following year the Court remarked in *S. A. L. Railway vs. Rentz*, 60 Florida, 429, that it might well be questioned whether the abolition of special demurrers and the enactment of Section 2630 had really simplified our pleadings or improved matters. If it be true, the Court proceeded to say in that case, that in attempting to simplify the common law system of pleading our legislators in enacting laws and our judges in making rules have applied the pruning knife too ruthlessly and have gone so far that they have marred that which they intended to mend, as has been often claimed, then it is certainly high time that the matter should be carefully looked into and proper action taken to straighten out the tangle in which we would seem to have become involved.

In the succeeding year the Supreme Court again referred to these defects and evils of our system of pleading and practice. This was in 1911, and neither the Bar nor the Legislature has seen fit to notice the recommendation of that body which is peculiarly fitted to note the defects of the system. Brethren of the Bar, these things ought not so to be. Such records as the reports of the Supreme Court show are a reproach on the practice of our honorable profession. If I may be permitted, I would suggest that all defects of substance or of form be taken by demurrer, those not specified to be disregarded, and that the motion to strike out and for that anomaly, a compulsory amendment, be abolished, leaving the motion to strike out applicable to such cases as it was at common law. It is often forgotten that power inherent in the court to strike out pleadings existed at the common law, and it is believed that many, if not most of such motions are today really made under the common law and not under the statute. Naturally the two classes of motions have been to some extent confounded in practice and sometimes the Supreme Court has not distinguished between them, but in *Ray vs. Williams*, 55 Florida, 723, the Court recognized the inherent power of the courts. At common law, the Court might strike out irrelevant pleadings;

pleadings lacking some formal requisite; frivolous or trifling pleadings, including repetition; scandalous language and surplusage. Surely this is sufficient scope for a motion to strike out.

For sixty-one years we have tried out the statutory method of raising objections to pleadings. It has failed us. Let us return to the old method, by requiring all objection to be raised by demurrer, otherwise not to be considered. I am convinced that by so doing we shall not only save the Circuit Courts and the Supreme Court much unnecessary labor, but also relieve our practitioners from uncertainty of procedure and from encumbering the records with useless proceedings.

The Indefensible Usurpation of Governmental Functions By Secret Societies

By HON. HENRY D. CLAYTON
Of Alabama

Mr. President, Ladies and Gentlemen:

As a guiding thought for this hour let us each for himself remember the words of a distinguished American Jurist, that

“Law is the business to which my whole life is devoted, and I should show less than devotion if I did not do what in me lies to improve it, and, when I perceive what seems to me the ideal of its future, I hesitated to point it out and to press toward it with all my heart.

To be sure, it is appropriate to ask this body of lawyers to hold in their minds and hearts the sentiments of the text quoted; and it is meet and proper to urge upon each the duty to inculcate respect for law, to do his part in its administration and at all times to condemn movements and practices hurtful to established, orderly government. Along with these suggestions there arises the lamentable reflection that lawyers do not now exercise as much influence in the social order generally that they did in the days when our institutions were first established or in the time of the earlier development of our legal policy. The causes for this decline of influence of the Bar upon the public life are easily discoverable. The prime fault is with the lawyers themselves, for they do not do their whole part in arousing, stimulating and directing the thought of the people. Too many lawyers become engrossed with the idea that their profession furnishes a gainful occupation, that to make a living or to earn money is the chief object of a professional career. To do these things is, of course, proper and to be expected; but it should not be forgotten that besides the duty he owes himself and his family and his client there is yet another which he owes to the community in which he lives. Among the contributed causes for the decline of the influence of the lawyer is the shallow preparation for admission to the Bar in the cases of many young lawyers. It is taken too much for granted that the applicant for admission to the Bar is grounded in the principles of our

civil government, state and federal, and that he is well and accurately informed as to the growth and development of our jurisprudence. This unpreparedness of the young lawyer and the narrowness of some practitioners are encouraged by the exaggeration of the importance of case law, and the extreme effort to standardize as well as to specialize. Such things detract from the interest of the lawyer in the study of general law and at the same time tend to lessen the notion that he should on proper occasions and in ways available teach the principles of orderly government, and insist that lawful methods and none other should be relied on in any case or contingency. In the discharge of such duty the lawyer should, of course, take pleasure and derive satisfaction. He, more than the layman, understands that government means the benefit of the community as well as the individual and is the application of public intelligence, morality, courage and activity essential to the welfare of the citizen and the citizens as a political unit. The Constitution of Alabama as well as the bill of rights of other states declares the object of government is the protection of the citizen in the enjoyment of life, liberty and property. To such extent orderly government must go; and if it go further and assume "other functions it is usurpation and oppression." It can hardly be doubted that the numerous extensions of governmental activities beyond the fundamental objects of government has led unthinking people to forget the real object of the government itself. Perhaps there is a too prevalent notion on the part of present-day students of civil government that the main objects of organized society are sanitation, road building, public schools and the like. As important as these things are, they are incidental benefits derived from the maintenance of order and to meet the developed and developing need of life in our advanced and complex civilization.

I would fail in my message to you if I contented myself with the observations advanced. What has been said is obviously the truth, but within the limits of the occasion we should descend to particulars.

Recent and almost daily happenings, current history, warrants us as lawyers who believe in a government of laws and not of men, in declaring opposition to all secret organizations under whatsoever name that assume the right to administer corrective or punitive justice according to the tenets and oaths of their members—men without the

authority of law. Such acts have at different times in the history of our country contributed to the idea that government, local or general, has failed to perform its functions and that the citizens have found it necessary to do these things to remedy governmental deficiencies. It is true that the people have the right to revolutionize or to change their government whenever they deem it wise to do so; but it is quite a different thing for this set of men or that set of men to undertake outside of the law to declare that the government is inefficient and to arrogate to themselves the power, independent of established public authority, to furnish supplemental remedies.

There is no place for an invisible empire in the United States, nor any reason for clan or gang to do any part of the business of governing or correcting or punishing citizens or a citizen. A secret organization for such purpose is reprehensible notwithstanding avowals of its members that they have benevolent objects and have sworn in secret meetings to uphold the Constitution of the United States. *Such avowals and such oaths cannot defeat the just charge that these organizations are conspiracies against law and government.* They are without lawful power to try any man for anything or to condemn and punish any citizen for any dereliction or crime, and whenever they do try and punish a citizen, *they violate not only the law, organic and statutory, but they offend the very spirit of the law and do an inestimable wrong to society.*

The good men who have joined such organizations ought to sever their relations. The example of an eminent citizen of Alabama may be cited. He joined the Klan, discovered that the organization had many cases on the "docket"—mark the word!—against citizens for in the most part trivial matters which members felt called upon to have heard in secret by the Klan, without the knowledge of presence of the accused. In some instances mere personal grievances or spite were involved. Just as soon as he succeeded in clearing the "docket" by having the cases dismissed, this good man abandoned his fellowship.

Such organizations cannot justify their existence by the facts of history as it can be demonstrated. It is familiar that in the days of '49 in California, with the excitement incident to the discovery of gold there, murders and robberies in that mining region became so frequent that good citizens formed the Vigilantes for the restoration of law and order. Conditions there were chaotic and crime was

rampant. We know that just as soon as—and it was soon—the courts could function, that organization disappeared, for it was entirely useless in organized and ordered society.

It will also be remembered that in the early days of reconstruction some good citizens of Tennessee organized the first Ku Klux Klan. It is authentic that the first thought and object was to have merely a social or benevolent fraternity. It is also history that in those unhappy hours of our Republic there was no civil government of or by the people of the South, who had been defeated in arms, but that there was the rule of the Carpet-Bagger and the Scalawag in control of ignorant Negroes in brutal numbers. These Carpet-Bag and Scalawag vultures were vested with power by the government at Washington and their decrees were enforceable by a triumphant and present military. The gleam of bristling bayonets controlled the situation and illumined the hard conditions imposed. The Klan conceived the idea of aiding in the restoration of self-government, the preservation of the white man's civilization, and believed it better to appeal to the superstition and fear of the ignorant and misguided rather than to force. We had well-nigh forgotten until within the last two or three years the regrettable things of those unhappy times. The Klan was investigated by Congress, the facts revealed and opinions and arguments advanced. These need not now be recited. However, let us remember that within one year after the Klan was born those who had used it under conditions most distressing, disbanded and declared it at an end. And it is not to be forgotten that after the good men had discarded that organization bad men took it up and in garbs and shrouds and masks, and in darkness perpetrated outrages against black people and white people as well. Florida lawyers are familiar with *Bacon et al vs. The State* (22 Florida, 51). In June, 1886, the Supreme Court of this great state delivered a righteous judgment forever condemning in this commonwealth the organization and methods of oathbound conspirators who would seek to punish any man whom they might find guilty of social or criminal dereliction. That case revealed an organization of men more blood-thirsty and defiant of law than the deepest dyed villain whose deeds adorn the pages of "Dead Eye Dick," the dare-devil type of dime novels—stories of atrocities committed in the great West by gun fighters, "Greasers" or savage Indians. A half century and more has gone since the ordeals of the '60s. Of those sad days we

were trying to remember only the valor and sacrifice of soldiers and sailors, Confederate and Union. We were in the twilight between memory and forgetfulness, where heroism with its sufferings and with its achievements and its failures as well could be seen in the soft light and where the evening shade had come to obscure the asperity and cruelty of an unhappy sectional difference. Long since, the reunited country had accepted the lofty sentiment of the beloved McKinley, one of the sweetest souls that ever dwelt in the White House, who felicitated the advent of the day when in fraternal friendliness the Union soldier could put flowers on the grave of the Confederate soldier and the Confederate soldier could pay the same loving tribute to the Union soldier. The astonishing thing is that after all these years and in these times of peace in our land, with orderly government functioning everywhere, the justice of the peace and his constable in the remote hamlet and the Supreme Court of the United States at Washington—all other governmental agencies between these two extremes of judicial authority operating in orderly fashion, it is, I repeat, strange indeed that men should feel called upon to organize themselves into secret societies, to try and condemn their fellow citizens in secret and to inflict punishment in darkness. Such organizations have no place in our land. They are not useful in the governing business and their activities cannot fail to be productive of crime. Public officials are required, not members of clans or gangs, to take the oath to uphold the constitutions, and the law marks out and enjoins the duties of courts to hear accusations, try offenders and ward punishments or acquittals—to apply the law applicable to the facts and to make the pronouncement of justice. No citizen wants his right of person or property passed upon by any secret conclave. He demands a fair trial, in the daytime, by an impartial judge and a jury of his peers. This is the final analysis to which we reduce our representative democracy in matters of all complaints, public and private, for infractions of the law in any and every kind of case. The fifth wheel is useless to the farmer's wagon and automobiles do not run on five wheels. So, likewise, are invisible empires and oathbound organizations unnecessary for good government; indeed and in truth their existence and actions constitute crime against government. We can amplify the charge against these clans or gangs by reference more in detail to their methods. They are not only practiced under shrouds and behind masks and in darkness, inherent

evidences of cowardice, but they are un-American and inevitably lead the way to atrocities. An effective remedy for the extirpation of these unlawful organizations would be to reach their membership and to appeal to any of the good citizens who may be members and have them understand the danger of clan and gang organizations. I happen to know that in one American city in the stress and excitement of the war, with the idea that it would serve a definite patriotic purpose, two secret masked societies of the Vigilantes kind came into existence. Parades by day and night were staged. Men of fine integrity and patriotism were members and officers. I believe these organizations have passed out of existence, but it is said that at one period it was with the greatest difficulty that the leaders who happened to be men of unusual strength of character were able to restrain activities and outrages based upon mere suspicion, or to deter the secret regulation of trivial matters. It is not to be doubted that the absence of the restraint of public opinion, the confidence begotten by the possession of the power of numbers and secrecy accompanied by intolerance make manifest the harm to come from secret organizations. The danger is inherent in the very existence of bands, call them Klansmen or gangsmen. Their very threats are anonymous, made in the name of nobody that can be recognized, and subscribed with mystical names and signs not usable in any lawful business or enterprise. Every stage of the proceedings of these bands are despicable, and they cannot justify their conduct upon any claim that they promote virtue and safety, public or private.

In the main the conduct of the American people and their attitude in respect to the menacing danger which I have denounced may be construed to indicate a regrettable indifference to the outrages committed by secret organizations with or without names. Public opinion should declare that there is not the slightest element of fair play in the conduct of clansmen and gangsmen. No member is as bold as was the blood avenger of ancient times, who had the courage to encounter his enemy in single-handed conflict. This modern outlaw always acts through overpowering numbers. These marauders always bear deadly weapons; the victim is helpless. He must submit to a flogging or killing, according to the decree of the secret conclave.

Business and industry have thrived in a way under the dominion of a tyrant, a ruler feared, but one seen and known, and whose laws

and decrees and methods of enforcement could be learned; but it must be expected that industry will wither if brought under invisible tyranny actuated by variable whims or passions, preference and prejudice. It matters not how much noisy propaganda may be promulgated as to education, sociological and humanitarian benefits which should be provided by government, if the results of such propaganda does not overcome the widespread ignorance of the fundamental purposes of government. The average citizen instinctively feels that he is entitled to protection. If his government, local or general, cannot afford this protection the primitive law of self-defense will cause him to seek protection through unofficial and perhaps secret organizations of his friends and neighbors. Thus it is easy to foresee clans multiply and the widespread growth of armed cliques for the existence of which can be urged self-protection. It would be easy to go further and tell how such organizations would act, as they have done in the past, for instance, develop strong men as leaders, and thus the process would go on from clan to tribunal government, oligarchies and eventually to monarchy, or anarchy. It is within the bounds of conservatism to say that our citizenry cannot be expected to remain loyal to a government, local or general, which is unable to afford protection. Out of disloyalty there will come the destruction of orderly procedure and methods and there will be a lapse into barbarism. Public complacency, indifference and cowardice must not contribute to the destruction of our institutions.

For the serious menace of "invisible" government and outrages perpetrated behind masks or under the cover of ghostlike paraphernalia there should be a remedy, and it will be found and made effectual whenever there is an aroused public sentiment to condemn generally all secret organizations pretending in the name of righteousness to supply the deficiencies in government. The growth of masked vengeance cannot be charged to the inefficiency of the courts. It may be that some thoughtless and pretended publicist would charge the cause to be the failure of the courts to properly discharge their duties, but the fact is that few, if any, of the matters that have provoked the white-garbed or masked forces of iniquity have appeared to have been the subjects of any sort of court action. Any observant man will agree that the mob or clan disease is largely attributable to unsound thinking; sometimes to the malevolence of individuals. And then, too, the idea seems to be popular that legislation and of-

ficial regulation can and must effect, restrict, direct and prohibit, here there and everywhere. Let it be admitted that much modern legislation and regulation has patent benefits to its credit, but it is true that all such has come so fast as to warp our mental processes and to militate against our ability for sound thinking. We are able to cause an official to be sent to inspect and approve or punish our neighbor for the way he keeps his back yard. Our children's teeth and nostrils are the subjects of public inspection and criticism. Our neighbor's cows must be dipped in a prescribed way or the neighbor must go to jail. In some states it is undertaken to get away from the old-time right of barter or trade, the law of supply and demand, of profit and loss, and to regulate the purchases of necessities by legislation enforceable by criminal prosecution. Amusements are censored, recreation is regulated. Unless the school to which we send our children is approved by officialdom we must go to jail and the children become the wards of juvenile courts. The amount of earnings that wives or husbands must contribute to the support of the family are not merely the grounds for prosecution and punishment but a source for the interference of the courts of domestic relations. The towels and toilets of the hotels are the subjects of regulation, and the sad commentary is that such is necessary in many cases for sanitation and health. It is not to be wondered at that one set of men, finding their neighbor doing something too trivial yet to have become a subject of regulation, that they should forthwith put into operation the tyranny of mind and foster intolerance. It is easy for us to comprehend the mental process of the man who has seen his neighbor regulated in all things, becoming impatient at the lack of official regulation as to some other matter and thereupon endeavoring to supply the remedy called for by the supposed legal or official neglect. In the campaigns for the promotion and passage of the multitudinous regulatory laws that hedge us about in every act of commission or omission, some men have argued as to the inalienable rights, natural rights and privileges of personal liberty; the proponents of modernism have "squelled" the objectors and have put them in the category of reactionaries. Thus has intolerance of thought and action been encouraged. We have taught ourselves to talk and think violently about personal habits and customs and too often intolerant action has followed. We have stressed the sidelines of governmental activity to the neglect of the fundamental rights guaranteed to the citizen.

Too many people are willing to maltreat a neighbor or to be unjust to an official because they have dared to give offense in some trivial matter or have not conformed to the judgment of the critic. In the pulpit, on the platform, in the court room, in the school and home let there be taught the fundamental truths as to the rights of men and the common sense application of the governing principles of our intricate society. It would be well if the present generation could fully realize that the great factors in civilization are not in public school education, sanitation and highway construction and the like, but that these factors are the principles which demand the preservation of life, liberty and property and the continuation of the pursuit of happiness. The fruits of such tutelage will be the reduction of unlawful acts by day as well as in the darkness of the night. Fault lies, as I have endeavored to show, not in any fundamental weakness in our civilization or government, but in the fact that we have obscured the foundation and framework of society and have too often forgotten the everlasting principles of good government enunciated in federal and state constitutions, the organic law essential for an effective and perpetual representative democracy.

Let it be noted that in the criticism of outrages mentioned there has not yet been heard any suggestion that the "melting pot," which the World War showed had melted too little, was blameworthy. This would indicate that the guilty parties are native Americans. It is also to be said while the first Ku Klux Klan is reputed to have taken undue interest in politics and the color question, the recent activities have appeared to be free from color or political alignment. The activities of the masked marauders have seldom been directed against the perpetrators of capital offenses. Vagrancy, family troubles and disapproval of official methods of local officials seem to have afforded a considerable part of the cause of action on the part of the maskers. Take the Birmingham episode: In Alabama we have a number of what are called "whole-time health officers," officials devoting all their time to looking after the public health interests of cities and counties. Certain counties and communities have discharged such officials because not needed or on account of the expense, or possibly because of the disapproval of methods of administration. At that great industrial city of the South a thorough-going young physician holds the place of County Health Officer. He seemed to have offended some people in the ordinary discharge of his

duties, and at a time when there was no epidemic or other cause for excitement or unusual activity of his department. The result was that he was enticed from home under cover of darkness and severely maltreated and ordered to quit his job or suffer. The latest report is that he has not quit and is still discharging his duties faithfully and acceptably.

The justly proud little city of Columbus, in Georgia, enjoyed the possession of its own modern government. It had a mayor and city commissioners, but much of the governing business was done through a city manager, a capable man from a Northern state. He was not charged with any misconduct, official or otherwise, nor was there any effort to procure his discharge in the orderly way provided by law. Threatening letters were sent to the mayor; the city manager was attacked and beaten. Finally, pursuant to the threats, a bomb was placed at the residence of the mayor and its explosion did great damage. A few days thereafter the city manager resigned and returned to his former home.

I have given you these two instances of outrages by marauders where the victims held high place. In all probability there are numerous instances where the victims are obscure and without influence, and who, therefore, have suffered in silence or have respected the threats of these conspirators against individuals and society itself.

The worst feature of such outrages is that they are not perpetrated as the avowed acts of criminals or miscreants but are committed under the guise and pretense of morality, reform or uplift. These law violators are guilty of the inexcusable self-deception of believing that they may do wrong and that thereby good will follow. There is too much disposition to minimize the import of such outrages, but I deem it a subject of such timely interest as to discuss these things and occurrences. I would not say that present-day outrages are all perpetrated by the Ku Klux Klan, but that outrages are perpetrated in that name and according to mystic and reprehensible methods. Whoever may be guilty of these outrages, the time-honored rules of common sense, propinquity, repute and circumstantial evidence all unite to put the Ku Klux Klan on the defensive.

Men of Florida, let me urge you to follow the example of former United States Senator White of Alabama, who was a brave

Confederate soldier and now a leading lawyer, and former United States Senator Percy of Mississippi, now in the front of the Bar of that state. They have publicly denounced "invisible" interference in government by clan or gang, and have the support of their brethren and people.

Report of the President

To the Florida State Bar Association:

I beg leave to submit a brief statement of my stewardship.

It will be remembered that at our last meeting in Jacksonville upon motion duly carried a committee was appointed by President O. K. Reaves, who were charged with the duty of presenting to the Legislature of 1921 the "inadequacy and incompetency" of the salaries then paid to Supreme Court Justices and Circuit Judges, and to urge upon the Legislature a raise of salary in some measure commensurate with the offices and duties. The salary requested was \$7500 for the former, and \$6000 for the latter. The committee, composed of W. J. Oven of Tallahassee, W. B. Crawford of Orlando and W. Hunt Harris of Key West, succeeded after arduous efforts in getting a raise of about \$1000 per annum for each of said offices.

According to the instruction of the Association, a committee was appointed to present to the Legislature of 1921 the proposed Bill for Regulating the Admission and Conduct of the Bar. This proposed act, in substantially the form as recommended, was passed by the Senate, but was never reached by the House of Representatives. I received requests from lawyers over the state to go to Tallahassee to assist the committee to get a hearing. To our surprise and dismay, we found men of our own profession who were members of the Legislature that appeared unconcerned, and we failed, after spending two days there, to get even a committee meeting. Much credit for the measure of success that was attained is due to certain well-known lawyers of the Senate and House, who are of the kind that feel they owe something to the profession, rather than that the profession owes them something.

I recommend that the same proposed bill, with such changes as this body sees fit to make, be introduced early in the session of 1923, and all members who can see their way clear to work for its passage to do so.

A committee should be appointed early in our present session to make any additions to, or strike from, our present bill that will redound to its perfection as near as possible. This committee should report back to this meeting for final action before adjournment. This proposed bill received much favorable comment from all portions of the United States in the past year.

It is generally believed that it forms the foundation for much future good to the legal profession.

At the time of the adoption of the Constitution of our Association \$5 annual dues was inserted and considered sufficient; then \$5 was almost the equal to \$10 now for ordinary needs of the Association. The present officers of your Association have felt themselves embarrassed almost constantly for lack of funds to carry out needed projects vital to the legal profession. Besides the amount of work this office necessarily entails, together with the time consumed in addition to that, I have been compelled to resort to my own resources when the actual necessities required that I make trips to Tallahassee and Jacksonville in the interest of the Bar Association. The Constitution should be amended so that the annual dues would hereafter be \$10. If possible, a periodical should be established and issued, which, together with other benefits would permit the members of the Bar to read all decisions of our Supreme Court at least sixty days earlier than now, through the Southern Reporter Advance Sheets.

The Bar Association of many other states have become almost state institutions, and much more is to be expected of ours.

Several important meetings have been held in the United States since our last meeting in Jacksonville. The American Bar Association met in annual session in Cincinnati last August, and following my predecessors I appointed Senator L. C. Massey of Orlando, Judge William Hunter of Tampa and Scott M. Lofton of Jacksonville, who attended.

As the outcome of a resolution adopted at Cincinnati, a conference was called to meet in Washington last February upon the subject of Legal Education and Admissions. The three following distinguished members accepted the appointment to attend as Florida's representatives at their own expense: Justice William H. Ellis of Tallahassee, William Hunter of Tampa and John C. Cooper, Jr., of Jacksonville. Judge Ellis, as Chairman of our delegation, will during our present meeting, on Friday, address this body, using as his subject "The Washington Conference on Legal Education and Admissions."

Since our last meeting your officers have put on what may be termed a drive, or campaign, for increasing the membership of this Association. After expending much time and effort our Secretary announced a membership increase of something like 25 per cent., a more particular report of which our Secretary and Treasurer will today make to you. This was accomplished almost wholly through the untiring efforts of our worthy Secretary, Herman Ulmer, and Philip S. May, our Treasurer.

Respectfully submitted,

C. O. ANDREWS,
President.

Report of Secretary

Your Secretary of 1921-1922 respectfully reports to you as follows:

Upon assuming office your Secretary first undertook to correct and re-arrange our roster of members. It was found that there were four separate lists of members in existence, no one of which was complete within itself and no two of which agreed with each other. These lists have been consolidated and corrected as far as possible and a card index system has been installed. Two sets of cards are kept, one listing the members alphabetically and the other by cities.

It is desired that this list be kept absolutely correct at all times, but as our membership is scattered all over the state, it is impossible for the Secretary to keep informed of all changes that are constantly taking place by reason of removal, retirement, death and other causes. Every member is earnestly requested to report to the Secretary every change that he may make in his own address and all other happenings in his county which may affect our roster.

At the close of the last annual meeting the membership of the Association totalled 416. We have lost four members by death, leaving the total number of old members at 412. Since the last meeting the Executive Committee has elected 137 new members, making a total membership of 548. This does not include the members to be elected at this meeting.

Under the authority of the Executive Committee an exhaustive and systematic effort to enroll new members has been made during the entire year. As a result 137 new members have been elected. These new members, as above reported, bring our total membership to over five hundred, or approximately 50 per cent. of the practicing attorneys in Florida. To function efficiently and to correctly reflect the opinion of the Bar, our Association should be composed of at least 75 per cent. of all the practicing attorneys in the state. The Secretary wishes to urge upon every member to influence the non-member attorneys at his local Bar to affiliate with us.

The minutes of the 1921 meeting were duly printed under the direction of the Executive Committee and distributed to all members as well as to numerous state Associations, and to court and university libraries throughout the country.

A directory of local Bar Association in the state of Florida was compiled and published in the printed reports of the 1921 meeting.

Only one complaint against a Florida attorney was received by this office. This attorney is not a member of our Association. The complaint was duly forwarded to the Committee on Grievances.

A number of meetings have been held by the Executive Committee at which routine business was taken care of. At the sugges-

tion of the President the Executive Committee has been considering the advisability of publishing a monthly or quarterly Law Review to contain early reports of the decisions of our courts and articles of a professional and personal interest to the Bar of the state. The Executive Committee felt that inasmuch as the Association met but once a year, such a periodical would serve to bind the organization together and would also prove of great professional and historical value. However, it was not considered wise to go into this work until the membership of the Association is materially increased.

During the past year a short resume of the history of the Association was prepared at the request of the Lewis Publishing Company of Chicago, which is publishing a three-volume illustrated history of the State of Florida. This sketch included a list of all former officers and meeting places of the Association, which list will be printed with the report of this meeting.

In addition to the above, the usual work of the Secretary's office has been carried on. With the greatly increased membership this work is constantly growing heavier. When the Association reaches the maximum of its membership strength, it will have to consider employing a commercial Secretary, who can devote his entire time to the office. At the present time the Association is unable to pay a salary large enough to permit the Secretary to devote to the duties of the office the time which they require.

Your Secretary respectfully recommends that the provisions of the constitution and by-laws regulating the admission of new members to the Association be amended. At the present time these provisions are conflicting and the procedure outlined is too cumbersome. The following amendments are suggested:

(a) That Article IV. of the Constitution be amended so as to read as follows:

ELECTION OF MEMBERS.

Article IV. Applications for membership may be made to the President of the Association, and be by him at once reported to the Committee on Admissions, which shall thereupon examine the same and report thereon with its recommendation to the Association at its next annual meeting or to the next meeting of the Executive Committee, whichever first occurs. The members of the Association or of the Executive Committee at such meeting shall thereupon vote on said application. Such vote may be either by ballot or vive voce. When applications are referred to a meeting of the Executive Committee, one vote in the negative shall defeat an election.

(b) That Article IX. of the Constitution be amended so as to read as follows:

COMMITTEE ON ADMISSIONS.

Article IX. It shall be the duty of this Committee to examine into the qualifications of every candidate proposed to the President for admission into this Association and to report thereon with recommendations to the next annual meeting of this Association, or to the next meeting of the Executive Committee, whichever first occurs. The proceedings of this Committee shall be deemed confidential and shall be kept secret except so far as the report or recommendation of the same shall be necessarily and officially made to the Association or to the Executive Committee.

(c) That Article XII. of the By-Laws be amended so as to read as follows:

CANDIDATES FOR MEMBERSHIP.

XII. Applications from membership must be in writing and addressed to the President. Each application must be accompanied by a deposit to cover one year's dues in the Association. All applications shall be referred by the President to the Committee on Admissions. Applications shall state the name and place of applicants' admission to the Bar and such particulars as may best make known his character and professional status. No rejected candidate shall be again proposed for membership until after the expiration of two years. If any person elected as a member does not within three months after notice thereof pay his admission fee and sign the Constitution, or by letter to the Secretary authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

The Secretary further recommends that Article VI. of the By-Laws be amended so as to provide for the appointment of the Chairman of all Committees by the President. At the present time Committees elect their own Chairman and the lack of authority of any member to call a meeting often prevents any action by the Committee. The appointment of a Chairman by the President will operate to make a committee a fully organized body from the instant of its appointment.

The following amendment is suggested in this connection:

OFFICERS OF COMMITTEES, ETC.

VI. In appointing Committees the President shall in each case designate one member thereof to act as Chairman. Each standing Committee shall continue until its successor shall be appointed.

Respectfully submitted,

June 14, 1922.

HERMAN ULMER,
Secretary.

Report of Treasurer

*To The President and Members of The Florida
State Bar Associations:*

Your Treasurer respectfully reports the following receipts and disbursements since his election in March, 1921:

From his predecessor in office.....	\$ 822.59
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Dues Collected

For the year 1918.....	\$ 90.00	
For the year 1919.....	100.00	
For the year 1920.....	185.00	
For the year 1921.....	920.00	
For the year 1922.....	670.00	
Total dues collected.....		\$1965.00
Interest on savings account.....		15.60
		<hr/>
Total amount received.....		\$2803.19

Disbursements

Administrative expenses—		
For the Secretary's office.....	\$ 912.88	
For the Treasurer's office.....	158.21	
		<hr/>
Total administrative expenses.....	\$1071.09	
Miscellaneous expenses.....	\$ 137.10	
Outstanding obligations at the time of the elec- tion of the present Treasurer.....	743.08	
		<hr/>
Total disbursements		\$1951.27
Balance on hand—		
In checking account.....	\$ 86.32	
In savings account.....	765.60	\$ 851.92
Outstanding obligations, none.		

A detailed report of the disbursements, given under general heads above, is as follows:

For the Secretary's office—	
Compensation for Secretary.....	\$350.00

(Note: The Convention of 1921 directed the Executive Committee to fix upon an amount for the Secretary's compensation. In pursuance of this authority, the Executive Committee fixed the compensation of the Secretary at \$25 per month. The Secretary having been elected in March, has served fourteen months).

Printing, folding, addressing, stamping and mailing 2000 copies of the proposed Act to Regulate the Practice of Law	58.96
Stenographic report of proceedings of 1921 convention.....	25.00
Stamped envelopes.....	23.24
Letterheads	21.01
Card index.....	3.30
Stamps	30.20
Express on records from former Secretary.....	1.43
Freight on records from former Secretary.....	2.45
Drayage on records from former Secretary.....	.85
500 envelopes for 1921 convention reports.....	12.25
Printing 1921 convention reports.....	171.99
Inserting and mailing 1921 convention reports.....	5.50
1000 envelopes	7.00
500 application blanks.....	14.61
1000 return envelopes, printed and stamped.....	35.82
Multigraphing, addressing and mailing Membership Campaign letters.....	34.00
500 envelopes, printed and stamped.....	18.13
Miscellaneous supplies.....	2.25
Expenses, trip to Orlando regarding convention.....	17.34
Printing and mailing notices of convention.....	15.12
500 reply cards for convention notices.....	14.41
1000 convention programs.....	48.02

Total disbursements for Secretary's office.....\$912.88

For the Treasurer's office—

Compensation for Treasurer.....	\$ 50.00
Rubber stamp	1.30
Printing statements.....	7.84
Stamped envelopes.....	39.18
Services of stenographer and bookkeeper.....	39.81
Folders88
Ledger and 300 sheets.....	7.35
Petty cash.....	5.00
Bond	5.00
Box files	1.85

Total Disbursements for Treasurer's office.....\$158.21

Miscellaneous expenses—

Luncheon, Mason Hotel, 1921 convention.....	\$100.00
Rental of chairs, 1921 convention.....	8.00
Flowers for funeral of Hon. W. A. Blount.....	25.00

Phone tolls regarding death and funeral of Hon. W. A. Blount	3.60
Total miscellaneous expenses.....	\$137.10
Outstanding obligations at the time of the election of the present Treasurer and since paid—	
Printing 1500 copies of report of 1921 convention.....	\$668.50
Envelopes for same, inserting, addressing, stamping and mailing	62.08
1000 application blanks.....	12.50
Total	\$743.08

The foregoing shows that the Treasurer now has in bank a total of \$851.92. A large part of this amount will be disbursed to meet the expenses of this convention. The Association is now undertaking a much broader program of activities and expenses will be incurred in carrying out these plans, so you will appreciate that it is urgently necessary that all members promptly pay their dues. The amounts owing by members to the Association are as follows:

For dues for the year 1918.....	\$ 865.00
For dues for the year 1919.....	900.00
For dues for the year 1920.....	1025.00
For dues for the year 1921.....	1145.00
For dues for the year 1922.....	2060.00
Total amount due the Association.....	\$5995.00

This is not so fruitful a source of revenue as it might seem, because there is a lot of deadwood in it. There are 173 members who owe for five years. Of these, it is probable, very few will be willing to pay up and continue on the rolls of the Association. During my incumbency in office I have sought to clear up the records as best I could. There were numbers of names on the roll of men who had ceased to be active, and there are still a large number of such names. During the period of the war, as you all know, the Association was inactive, and it will take some time to get the records completely revised. Many statements were returned to me with the notation that the member had resigned, and in these cases the names were removed from the records. Of the 173 now shown by the records to owe for five years, some have stated that the record is correct, but the great majority have made no response to the several statements mailed them. I recommend that the incoming Treasurer make a further effort to get some expression from these men, and that those who fail to respond be dropped from the rolls.

The bond required of the Treasurer by the Constitution has been furnished. The audit required by the By-Laws has not been made, but the Treasurer's books are now available for this audit, and I hope that it will be accomplished during the day.

The income of the Association has been larger for the year just ended than in any previous year; this has been principally due to the Membership Campaign conceived by our President and effectively carried out by our Secretary. The expenses of the Association have also been larger than in previous years, which is attributable to the enlarged activities of the Association.

The records of the Treasurer show a total membership of 546, of whom 134 have paid their dues for the year 1922, which dues matured with the meeting of this convention.

Respectfully submitted,

PHILIP S. MAY,
Treasurer.

***Draft of Proposed Act to Regulate the State Bar**

Section 1. For the purpose of the more efficient administration of justice, the Bar of the state of Florida shall be charged with the power and duty, acting through its Board of Governors, as hereinafter provided, of supervising and regulating the admission to practice, and the conduct of, attorneys at law of this state, as hereinafter provided.

Sec. 2. All attorneys at law of this state are hereby declared to be officers of the courts of the state and as such are declared to be members of the State Bar and shall be subject to the provisions and requirements of this act.

Sec. 3. The membership of the State Bar shall be composed of all attorneys at law of this state, as well as those hereafter duly admitted to the practice of law as provided in this act.

Sec. 4. The Board of Governors of the State Bar as hereby created shall issue certificates of membership in the State Bar to those entitled to same upon payment of the license fee hereinafter provided for.

Sec. 5. The State Bar shall be governed by a Board of Governors which shall be composed of nine members, who shall be appointed by the Governor of the state from the members in good standing of the State Bar, two from each Congressional District as now or may be hereafter constituted and one from the state at large. In appointing the Board of Governors, the Governor of the state shall take into consideration the recommendation of a majority of the members of the said Bar, although such recommendation shall not be binding upon the Governor. For the purpose of determining the choice of the members of the Bar for appointment to the Board of Governors, an advisory nomination election shall be held at such reasonable time before the time provided in this act for the appointment of a Board of Governors as the board may designate. For the purpose of ascertaining the choice of members for appointment to the Board of Governors, the board shall send out suitable ballots to each member of the State Bar, and the result of such advisory election shall be transmitted by the board to the Governor of the state before the time fixed for the appointment of members of the Board of Governors under the provisions of this act; provided, such advisory election to determine the choice of the membership for appointment on the first board of governors appointed hereunder may

*This proposed act, in substantially the form as here given, was passed by the Senate at the 1921 session of the Legislature of the State of Florida, but was never reached by the House of Representatives.

be conducted by the voluntary State Bar Association existing at the time this act takes effect and all practicing attorneys of the state shall be given the privilege of voting in such election.

Sec. 6. The first board of governors appointed under this act shall be appointed for the following terms: Three members shall be appointed for a term of one year; three for a term of two years; and three for a term of three years, and after each of such terms shall expire, three members shall be appointed by the governor for terms of three years.

Sec. 7. The board of governors shall elect by ballot from its own membership one who shall be designated as chairman of the State Bar and as such shall preside at all meetings of the Bar and of the board of governors. The board shall also elect a vice chairman, who shall act in the absence of the chairman. The terms of office of the chairman and vice chairman shall be one year.

Sec. 8. The board shall select a secretary, who shall keep the records and documents of the board and of the State Bar, except those pertaining to finances, and shall perform such other duties as may be imposed upon him by the board. The secretary shall not be a member of the board of governors and shall be appointed for a term of two years, unless sooner removed by the governor on the recommendation of the board, and may be allowed a reasonable compensation by the board for his service.

Sec. 9. The board shall also recommend to the governor a suitable person to be appointed treasurer of the State Bar, who shall be charged with the duty of keeping the accounts and finances under the direction of the board of governors, and whose appointment shall be for two years, unless sooner removed by the governor on the recommendation of the board. He shall be paid a salary of three hundred dollars (\$300) and shall give a bond in the sum of five thousand dollars (\$5,000) with some surety company authorized to do business in this state, the fee therefor to be paid out of the funds of the board.

Sec. 10. The board may provide for such committees, with such duties as may be deemed expedient, for the purpose of assisting in administering the provisions of this act, except as to such matters as are herein required to be performed by the members of the board of governors personally.

Sec. 11. The board of governors shall be charged with the executive functions of the State Bar and the proper enforcement of the provisions of this act. It shall have a common seal authenticating all its formal acts and orders.

Sec. 12. The board shall act upon all applications for membership in the State Bar and order the issuance of certificates of membership; receive complaints against members; make reports and rec-

ommendations to the State Bar at the annual meetings and to the supreme court of the state on matters pertaining to the administration of justice in the state; and shall annually report to the governor and the attorney general the condition of litigated business in each of the judicial circuits of the state, which report shall be embodied in the report of the attorney general to the legislature; and generally shall act for the State Bar in all matters pertaining thereto.

Sec. 13. The board shall prepare and furnish such blank forms for application and certificate of membership, forms for complaints, orders, etc., as may be necessary for the proper enforcement of this act.

Sec. 14. With the approval of the supreme court, the board shall have power to formulate rules of professional conduct for all members of the Bar.

Sec. 15. The board shall have power to determine the qualifications for admission to practice law in this state and shall examine candidates as to their qualifications and recommend such as fulfill the requirements imposed to the Supreme Court for admission to practice under this act; provided, however, that until this power is exercised by the board, the requirements for admission to practice under this act shall be the same as those now prescribed by the Supreme Court for admission to practice law in this state and shall be vested in the Supreme Court as now provided by law. Provided, that nothing in this act shall be construed to repeal or affect section 2546 of the Revised General Statutes of Florida, 1920, relative to the admission of graduates of certain law schools of the state without examination as to legal attainments, or section 2545 thereof, relating to the admission to practice without examination of attorneys admitted in other states. The examination for legal fitness conducted by the board shall be thorough and comprehensive and it shall also, before recommending any candidate for admission, fully ascertain his moral fitness to be a member of the Bar.

Sec. 16. The board of governors shall hold regular quarterly meetings on the third Monday of June, September, December and March of each year. Five members of the board shall constitute a quorum. Special meetings may be held on written request of three members thereof, stating the necessity and purpose of the call, and the secretary shall notify each member of the board at least five days before the time fixed in the call for such special meeting.

Sec. 17. All necessary expenses of the board of governors, including traveling expenses incurred in disbarment proceedings and in holding examinations for admission to practice, as well as all other expenses incurred in the discharge of the duties imposed upon them by this act, shall be paid by the treasurer on proper vouchers therefor.

The approval of the board of governors shall be final as to the propriety of any item of expenditure.

Sec. 18. Each member of the State Bar shall on October 1st of each year pay to the state treasurer an annual license fee or tax of twenty-five dollars. Of this amount the treasurer of the state shall retain ten dollars as state license tax, shall pay to the county treasurer of the county of the residence of the member five dollars and shall transmit to the board of governors ten dollars, which shall be used under the direction of the board in the proper administration of this act. No other or further license fee or tax shall be imposed for the privilege of practicing law in the state. Any surplus which shall remain in the hands of the treasurer of the State Bar at the end of each fiscal year shall be paid over into the state treasury and be converted into the general revenue fund. No license to practice law shall be issued by the state treasurer until such annual license fee has been paid by the member, accompanied by a certificate of membership of the State Bar.

Sec. 19. Certificates of membership shall be issued on or before October 1, 1923, to take effect as of the date this act becomes effective and no person shall be permitted to practice law in this state, or hold himself out to practice, until he shall hold a certificate of membership in the State Bar, and, on or before October 1st of each year, shall have paid the license tax herein specified.

Sec. 20. The State Bar shall hold an annual meeting of its members, beginning the second Monday in March of each year, at such place as may be designated by the board of governors. At such meetings the said Bar shall receive reports of the proceedings of the last annual meeting and reports of proceedings had by the board of governors since the last annual meeting; and shall receive and act upon other matters of interest pertaining to the efficiency and development of the administration of justice and to the legal profession generally. The board of governors shall, through its chairman, report and recommend to the State Bar in annual session such matters of interest to the profession as it may deem proper and expedient. Such meetings of the State Bar may be held at such times as may be called by the chairman and secretary on written request of thirty members, stating the time and purpose of the meeting.

Sec. 21. Upon complaint made for disbarment to the board of governors or any member thereof, or upon investigation made by the board or any member or officer thereof, affecting the conduct of a member of the State Bar, the board shall investigate the same, and if a majority of the members of the board are satisfied that the matter complained of is one which should be presented to the court for prosecution, the chairman of the board of governors shall designate three members of the board, who shall in the name of the State of

Florida institute disbarment proceedings in the proper circuit court and see that the same are promptly brought to trial, in which said trial the proceedings shall be conducted by one or more of the committee so appointed; but this shall not prevent judges now so authorized by law to order the institution of disbarment proceedings to exercise such right. The proceedings hereby authorized are to be held and taken as cumulative to any existing provisions of law.

Sec. 22. It shall be unlawful for anyone to practice or assume to act or hold himself out to the public as qualified to act or carry on the calling of an attorney at law, without having first obtained the certificate mentioned in the fourth section of this act. This shall not exclude attorneys from other states from appearing in particular cases when under the rules of comity of such other states attorneys at law of Florida are similarly permitted to appear.

Sec. 23. All acts or parts of acts in any way conflicting with the provisions of this act are hereby expressly repealed and this act shall be deemed a remedial act, designed to facilitate the administration of justice in the courts of the state and as such shall be liberally construed to effectuate its intent and purpose.

Officers and Committees

1922-1923

President

ARMSTEAD BROWN.....Miami

Secretary

HERMAN ULMER.....Jacksonville

Treasurer

P. S. MAY.....Jacksonville

Vice-Presidents From Each Judicial Circuit

WILL H. WATSON, 1st.....	Pensacola
F. B. WINTHROP, 2nd.....	Tallahassee
J. B. JOHNSON, 3rd.....	Live Oak
FRANK JENNINGS, 4th.....	Jacksonville
L. W. DUVAL, 5th.....	Ocala
JOHN U. BIRD, 6th.....	Clearwater
J. J. DICKINSON, 7th.....	Sanford
A. Z. ADKINS, 8th.....	Starke
H. H. WELLS, 9th.....	Chipley
J. J. SWEARINGEN, 10th.....	Bartow
JOHN MURRELL, 11th.....	Miami
R. A. HENDERSON, JR., 12th.....	Fort Myers
GEORGE P. RANEY, 13th.....	Tampa
C. L. WILSON, 14th.....	Marianna
FRED FEE, 15th.....	Fort Pierce
L. C. MASSEY, 17th.....	Orlando

Executive Council

E. P. AXTELL.....	Jacksonville
C. O. ANDREWS.....	Orlando
W. H. ELLIS.....	Tallahassee
O. K. REEVES.....	Tampa
ARMSTEAD BROWN.....	Miami
HERMAN ULMER.....	Jacksonville
P. S. MAY.....	Jacksonville

Admissions

A. J. ROSE, <i>Chairman</i>	Miami
FREDERICK M. HUDSON.....	Miami
MITCHELL D. PRICE.....	Miami
FRED FEE.....	Fort Pierce
FRANK P. FLEMING.....	Jacksonville

Judicial Administration and Legal Reform

L. C. MASSEY, <i>Chairman</i>	Orlando
C. B. ROBINSON.....	Orlando
PAT JOHNSON	Kissimmee
W. A. CARTER.....	Tampa
A. Z. ADKINS.....	Starke

Legal Education

W. E. KAY, <i>Chairman</i>	Jacksonville
J. M. PEELE.....	Jacksonville
J. T. G. CRAWFORD.....	Jacksonville
FRED T. MYERS.....	Tallahassee
J. B. JOHNSON.....	Live Oak

Grievances

F. B. CARTER, <i>Chairman</i>	Pensacola
E. C. MAXWELL.....	Pensacola
S. PASCO, JR.....	Pensacola
A. G. CAMPBELL.....	DeFuniak Springs
PAUL CARTER	Marianna

Legal Biography

JEFFERSON B. BROWNE, <i>Chairman</i>	Tallahassee
W. HUNT HARRIS.....	Key West
FRANK B. SHUTTS.....	Miami
R. L. ANDERSON.....	Ocala
W. W. HAMPTON.....	Gainesville

Ethics

JOHN E. HARTRIDGE, <i>Chairman</i>	Jacksonville
J. C. COOPER.....	Jacksonville
SCOTT M. LOFTIN	Jacksonville
E. B. DONNELL.....	West Palm Beach
R. H. ROWE.....	Madison

List of Former Presidents

ROBERT L. ANDERSON, Ocala, Florida.....	1907-08
FRED T. MYERS, Tallahassee, Florida.....	1908-09
E. B. GUNBY, Tampa, Florida.....	1909-10
JEFFERSON B. BROWNE, Key West, Florida.....	1910-11
W. A. BLOUNT, Pensacola, Florida.....	1911-12
GEORGE C. BEDELL, Jacksonville, Florida.....	1912-13
W. A. MACWILLIAMS, St. Augustine, Florida.....	1913-14
W. H. PRICE, Miami, Florida.....	1914-15
THOMAS F. WEST, Tallahassee, Florida.....	1915-16
NATHAN P. BRYAN, Jacksonville, Florida.....	1916-17
WILLIAM HUNTER, Tampa, Florida.....	1917-19
W. H. ELLIS, Tallahassee, Florida.....	1919-20
O. K. REAVES, Bradentown, Florida.....	1920-21
W. E. KAY, Jacksonville, Florida (Resigned upon election).....	1921-
C. O. ANDREWS, Orlando, Florida.....	1921-22
ARMSTEAD BROWN, Miami, Florida.....	1922-23

List of Meeting Places

- 1907—Jacksonville, Florida.
- 1908—Atlantic Beach, Florida.
- 1909—St. Augustine, Florida.
- 1910—Tampa, Florida.
- 1911—Pensacola, Florida.
- 1912—Jacksonville, Florida.
- 1913—Miami, Florida.
- 1914—Tallahassee, Florida.
- 1915—Atlantic Beach, Florida.
- 1916—Atlantic Beach, Florida.
- 1917—Jacksonville, Florida.
- 1918—No meeting held because of World War.
- 1919—Atlantic Beach, Florida.
- 1920—Jacksonville, Florida.
- 1921—Jacksonville, Florida.
- 1922—Orlando, Florida.

List of Members*

Abbott, C. D.....	West Palm Beach
Abrams, A. St. C.....	Jacksonville
Adair, H. P.....	Jacksonville
Adams, Thos. B.....	Jacksonville
Adkins, A. Z.....	Starke
Adkins, J. C.....	Gainesville
Akerman, Alexander	Orlando
Alderman, F. C.....	Fort Myers
Allen, G. W.....	Key West
Anderson, H. L.....	Jacksonville
Anderson, Robert	Jacksonville
Anderson, R. L.....	Ocala
Anderson, Robt. L., Jr.....	Ocala
Andrews, Chas. O.....	Orlando
Andrews, Guy A.....	Tampa
Andrews, M. M.....	Jacksonville
Atkinson, H. F.	Miami
Axelroad, Benjamin	Miami
Axtell, E. P.....	Jacksonville
Baker, R. A.....	Jacksonville
Baker, W. H.....	Jacksonville
Baldwin, L. W.....	Jacksonville
Barco, Samuel J.....	Miami
Barker, W. J.....	Jacksonville
Barnes, Paul D.	Miami
Barringer, Harrison E.....	Jacksonville
Barrs, Burton	Jacksonville
Baxter, E. G.....	Gainesville
Baya, H. P.....	Tampa
Beall, Philip D.....	Pensacola
Bedell, G. C.....	Jacksonville
Beggs, E. D.....	Pensacola
Bell, A. H.....	Green Cove Springs
Bell, Joseph	Ocala
Bell, J. D.....	St. Petersburg
Bell, W. D.....	Arcadia
Benson, Clifton D.....	Miami
Billingsley, J. L.....	Miami

*NOTE: In order that our records may be accurate, each member is requested to examine this membership list and to advise the Secretary of any errors he may discover, either as to his own, or any other member's, name or address.

Binkley, A. C.....	Pensacola
Bird, Thos. B.....	Monticello
Bird, John U.....	Clearwater
Bishop, H. W.....	Eustis
Blackwell, C. D.....	Live Oak
Blackwell, Joel N.....	Palatka
Blakley, Norman N.....	Miami
Blalock, J. W.....	Jacksonville
Booth, James	St. Petersburg
Booth, Lee M.....	Jacksonville
Borchardt, Samuel	Tampa
Boswell, C. A.....	Bartow
Botts, Fred	Miami
Bowen, Crate D.....	Miami
Boyer, C. A.....	Orlando
Boyer, J. A.....	Jacksonville
Brady, J. W.....	Bartow
Branning, H. P.....	Miami
Brass, B. F.....	Daytona
Bridges, Edward S.....	Orlando
Brodie, Robt.	Tampa
Brown, Armistead	Miami
Brown, M. M.....	McClenny
Brown, R. E.....	Arcadia
Browne, Jefferson B.....	Tallahassee
Bryan, N. P.....	Jacksonville
Bryan, W. J.....	Miami
Buford, R. H.....	Marianna
Bullock, R. B.....	Ocala
Bunch, James H.....	Jacksonville
Burdine, R. F.....	Miami
Burford, R. A.	Ocala
Bussey, H. L.....	West Palm Beach
Bussey, James R.....	St. Petersburg
Butler, F. W.....	Jacksonville
Butler, J. T.....	Jacksonville
Cadel, John S.....	Kissimmee
Caldwell, H. S.....	Live Oak
Calhoun, E. N.....	St. Augustine
Calhoun, J. M.....	Marianna
Calhoun, Julian C.....	Palatka
Calkins, J. E.....	Fernandina
Call, R. M.....	Jacksonville
Campbell, A. G.....	DeFuniak Springs
Campbell, D. C.....	Jacksonville
Campbell, Dan	DeFuniak Springs

Campbell, Patillo	Pensacola
Caraballo, M.	Tampa
Carlton, Doyle E.	Tampa
Carmichael, M. D.	West Palm Beach
Carson, J. M.	Miami
Carter, Dickson H.	Pensacola
Carter, F. B.	Pensacola
Carter, John H.	Marianna
Carter, Paul	Marianna
Carter, W. A.	Tampa
Cason, F. W.	Miami
Cheney, J. M.	Orlando
Chillingworth, C. E.	West Palm Beach
Christie, W. McL.	Jacksonville
Clark, Benjamin, F.	Dade City
Clark, Frank	Gainesville
Clark, Frank, Jr.	Miami
Clark, H. C.	Jacksonville
Clarke, S. D.	Monticello
Clark, W. W.	Milton
Clarkson, Philip	Miami
Clarkson, P. Moody	Jacksonville
Clayton, H. D. (Honorary)	Montgomery, Ala.
Cockrell, Alston	Jacksonville
Cockrell, A. W., Jr.	Jacksonville
Cockrell, Nathan	Jacksonville
Cockrell, R. S.	Gainesville
Cohen, M. H.	Tampa
Coleman, Geo. W.	West Palm Beach
Collum, J. T. M.	Bushnell
Cone, W. B.	MacClenny
Coogler, F. B.	Brooksville
Cook, Bayard S.	St. Petersburg
Cooper, C. M.	Jacksonville
Cooper, C. P.	Jacksonville
Cooper, J. C.	Jacksonville
Cooper, J. C., Jr.	Jacksonville
Cooper, J. J. G.	Jacksonville
Copp, Cyril C.	Jacksonville
Cowles, W. T.	Jacksonville
Crawford, J. T. G.	Jacksonville
Crawford, W. B.	Orlando
Crews, A. S.	Starke
Crichlow, W. B. S.	Bradentown
Crocker, O. Lamar	River Junction
Cubberly, F. C.	Gainesville

Currie, Geo. G.	West Palm Beach
Dame, H. J.	Inverness
Daniel, R. P.	Jacksonville
Dart, Ernest	Jacksonville
Davant, J. C., Jr.	Brooksville
David, Salem K.	Jacksonville
Davis, E. W.	Orlando
Davis, F. H.	Tallahassee
Davis, R. E.	Gainesville
Davis, R. W.	Gainesville
Davis, W. B.	Perry
Decottes, Geo. A.	Sanford
DeVane, Dozier A.	Tallahassee
Dewell, Robt. T.	Jacksonville
Dewhurst, W. W.	St. Augustine
Diamond, Sidney H.	Tallahassee
Dickinson, J. J.	Sanford
Diver, J. S.	Jacksonville
Dodge, J. W.	Jacksonville
Doggett, J. L.	Jacksonville
Doggett, J. L., Jr.	Jacksonville
Doig, David H.	Jacksonville
Donnell, E. B.	West Palm Beach
Drumwright, E. B.	Tampa
Duncan, H. C.	Tavares
Dunham, David R.	St. Augustine
Dunn, Edgar G.	St. Petersburg
Durrance, Chas.	Jacksonville
Durrance, F. M.	Jacksonville
Durrance, S. E.	Orlando
Duval, L. W.	Ocala
Dye, Dewey A.	Bradentown
Edmondson, J. A.	Tallahassee
Edwards, G. C.	Cocoa
Edwards, John S.	Lakeland
Ellis, T. B., Jr.	Gainesville
Ellis, W. H.	Tallahassee
Eyles, H. H.	Miami
Farley, W. B.	Marianna
Farris, C. C.	Tampa
Farris, I. L.	Jacksonville
Fee, Fred	Fort Pierce
Fielding, Thos.	Gainesville
Fish, Bert	DeLand
Fitzgerald, T. E.	Daytona
Fleming, C. S.	Jacksonville

Fleming, F. P.....	Jacksonville
Fletcher, D. U.....	Jacksonville
Flournoy, W. W.....	DeFuniak Springs
Foster, Stephen E.....	Jacksonville
Franklin, J. A.	Jacksonville
Frazier, Jos. W.....	Tampa
Frazier, W. R.	Jacksonville
Freeland, W. L.....	Miami
Frink, R. L.....	Jasper
Futch, J. E.....	Starke
Futch, T. G.....	Leesburg
Gaines, J. B.....	Leesburg
Garrett, George P.....	Kissimmee
Gaskins, Perse L.....	Jacksonville
Gautier, R. B.....	Miami
Geiger, G. W.....	Green Cove Springs
Gibbons, Cromwell	Jacksonville
Gibbons, M. G.....	Tampa
Gibbs, G. C.....	Jacksonville
Gibson, Lee S.....	Tampa
Giles, LeRoy B.....	Orlando
Gillen, Guy	Lake City
Gillespie, J. H.....	Manatee
Givens, Morris	Tampa
Glazier, H. S.....	Bradentown
Glenn, Jas. F.....	Tampa
Gober, Wm.	Ocala
Gomez, Authur	Key West
Gordon, H. C.....	Tampa
Graham, W. S.....	Tampa
Gramling, John C.....	Miami
Gray, DeWitt T.....	Jacksonville
Green, Alfred A.....	Daytona
Gregory, E. P.....	Quincy
Guest, Lee	Jacksonville
Hale, Eugene	Jacksonville
Haley, D. G.....	Jacksonville
Hallowes, W. A., Jr.....	Jacksonville
Hamilton, F. P.....	Jacksonville
Hamlin, R. P.....	Tavares
Hampton, E. B.....	Gainesville
Hampton, H. M.....	Ocala
Hampton, H. S.....	Tampa
Hampton, W. W.....	Gainesville
Hampton, W. W., Jr.....	Gainesville
Hamrick, R. E.....	Okeechobee

Hardee, C. A.....	Live Oak
Harrell, J. F.....	Live Oak
Harris, John D.....	St. Petersburg
Harris, W. Hunt.....	Key West
Hartridge, A. G.....	Jacksonville
Hartridge, J. E.....	Jacksonville
Hartridge, Julian	Jacksonville
Harwick, R. E.....	Okeechobee
Harwick, W. H.....	Jacksonville
Hazeltine, A. H.....	Miami
Heath, N. McK.....	Miami
Hefferman, D. J.....	Miami
Heintz, Frank J.	Jacksonville
Hemmings, Frederick L.....	Fort Pierce
Hemphill, E. S.....	Jacksonville
Henderson, J. W.....	Tallahassee
Henderson, R. A., Jr.....	Fort Myers
Hendry, W. T.....	Perry
Hilburn, S. J.....	Palatka
Hill, Wm. H.....	Washington, D. C.
Himes, W. F.....	Tampa
Hocker, Wm.	Ocala
Hodgden, H. B.....	DeLand
Hodges, W. C.....	Tallahassee
Hoffman, G. E.....	Pensacola
Hogan, H. H.....	Orlando
Holland, J. W.....	Jacksonville
Holt, F. M.....	Jacksonville
Horn, Harry A.....	Daytona Beach
Householder, E. F.....	Sanford
Howell, C. C.....	Jacksonville
Howell, L. D.	Jacksonville
Hudson, F. M.....	Miami
Huffaker, R. B.....	Bartow
Hull, D. C.....	DeLand
Hulley, Lincoln	DeLand
Hunter, J. W.....	Tavares
Hunter, Wm.	Tampa
Huntley, J. P.....	Watertown
Hutchins, J. H.....	Orlando
Hutchinson, Gov.	Jacksonville
Hutchinson, Robt. L.....	Jacksonville
Ingram, F. P.....	Dade City
Jackson, W. H.....	Tampa
Jackson, W. K.....	Jacksonville
Jennings, F. E.....	Jacksonville

Johnson, J. B.....	Live Oak
Johnson, L. C.	Bartow
Johnston, Greene S., Jr.....	Tallahassee
Johnston, Pat.	Kissimmee
Jones, C. M.....	Pensacola
Jones, J. C.....	Orlando
Jones, Jno. B.....	Pensacola
Jones, Joseph H.....	Orlando
Jones, Lake	Jacksonville
Jones, M. F.....	Jacksonville
Jones, M. H.....	Clearwater
Jones, R. Percy	Arcadia
Judson, C. D.....	Lakeland
Kay, W. E.....	Jacksonville
Kehoe, J. W.....	Pensacola
Kelly, J. R.....	Madison
Kennedy, Wm.	Tavares
Kent, W. C.....	Jacksonville
King, A. H.....	Jacksonville
King, Roswell	Jacksonville
King, Wm. G.....	St. Petersburg
Kloeppel, Robert	Jacksonville
Knight, Albion W.....	Jacksonville
Knight, P. O.....	Tampa
Knight, R. D.....	Jacksonville
Knight, Telfair	Jacksonville
Knowles, C. L.....	Key West
Kurtz, E. B.....	Miami
Kurtz, R. E.....	Moore Haven
Laird, H. S.....	Milton
Lamb, J. P.....	Palatka
Lamson, Herbert	Jacksonville
Lane, Freeman P.....	St. Petersburg
Landis, Cary D.....	DeLand
Langford, W. C.....	Arcadia
Larimore, G. L.....	Tampa
Layton, C. R.....	Gainesville
Leitner, George	Arcadia
Leitner, W. E.....	Arcadia
Lemire, C. E.....	Orlando
L'Engle, E. J.....	Jacksonville
L'Engle, John B.....	Jacksonville
Lewis, A. E.....	Marianna
Lewis, G. F.....	Milton
Lewis, M. W.....	Jacksonville
Lichliter, C. H.	Jacksonville

Liddell, W. W.....	Jacksonville
Lischkoff, Leon N.....	Pensacola
Locke, E. O.....	Jacksonville
Loftin, Scott M.....	Jacksonville
Long, A. V.....	Palatka
Long, Martin H.....	Jacksonville
Love, E. C.....	Quincy
Lucas, T. E.....	Tampa
Lunsford, J. J.....	Tampa
Mabry, G. E.....	Tampa
Madison, Wm. M.....	Jacksonville
Macfarlane, Howard P.....	Tampa
Macfarlane, Hugh C.....	Tampa
MacFarlane, M. B.	Tampa
Maguire, K. F.....	Orlando
MacWilliams, W. A.....	St. Augustine
Maines, Schelle	Sanford
Malone, Wm. H.....	Key West
Marks, R. P.....	Jacksonville
Marks, Samuel R.....	Jacksonville
Martin, E. H.....	Ocala
Martin, G. C.....	Brooksville
Martin, W. T.....	Tampa
Massey, L. C.....	Orlando
Mathews, J. E.....	Jacksonville
Mathews, S. M.....	Jacksonville
Maxwell, E. C.....	Pensacola
May, Phil. S.....	Jacksonville
Merrell, Herman.....	St. Petersburg
McCaffery, Wm. T.....	Jacksonville
McCauley, Gordon	Jacksonville
McCollum, O. O.....	Jacksonville
McConathy, R.	Ocala
McCord, Guyte P.....	Tallahassee
McGarry, Paul D.....	Jacksonville
McIlvaine, Thos. W.....	Jacksonville
McKay, K. I.....	Tampa
McMullen, A. B.....	Clearwater
McMullen, Alonzo B.....	Tampa
McMullen, D. C.....	Tampa
McNamee, Robt.	Jacksonville
McNeill, A. D.....	Jacksonville
Meginnis, B. A.....	Tallahassee
Merryday, H. C.....	Palatka
Mershon, W. L.....	Miami
Middleton, D. K.....	Panama City

Milam, A. Y.....	Jacksonville
Milam, B. R.....	Jacksonville
Milam, R. R.	Jacksonville
Miller, A.	Jacksonville
Milton, L. R.	Jacksonville
Milton, W. H.....	Marianna
Mitchell, E. W.....	Jacksonville
Morgan, L. Z.	Jacksonville
Morris, J. W., Jr.....	Tampa
Morrow, C. J.....	Miami
Murrell, John M.....	Miami
Myers, F. T.....	Tallahassee
Nelson, L. W.....	St. Augustine
Newell, Leigh G.....	Orlando
Newman, Leonard B.	Titusville
Noble, Carl	Jacksonville
Noble, Fred B.....	Jacksonville
Odlin, A. F.....	San Juan, Porto Rico, U. S. District Court
Odom, A. H.....	Palatka
Odom, P. H.....	Jacksonville
Olliphant, H. K.....	Bartow
Olliphant, H. K., Jr.....	Bartow
Osborne, H. P.....	Jacksonville
Oven, W. J.....	Tallahassee
Owen, Crockett.....	St. Petersburg
Palmer, Allison E.....	Orlando
Palmer, G. O.....	Lake City
Parker, Geo. F.....	Okeechobee
Parker, Otis R.....	Fort Pierce
Pasco, S., Jr.....	Pensacola
Patterson, Giles	Jacksonville
Payne, Walter D.....	Miami
Peacock, H. Blaine.....	Tampa
Peel, David	Melbourne
Peeler, C. B.....	Jacksonville
Peeler, J. M.....	Jacksonville
Pelot, C. E.....	Jacksonville
Penny, A. D.....	Miami
Perkins, G. B.....	Tallahassee
Perkins, Jas. W.....	DeLand
Perry, Wm. Y.....	Sarasota
Pettibone, Frank A.....	West Palm Beach
Pettingill, N. B. K.....	Tampa
Phillips, H. B.....	Jacksonville
Phillips, H. S.....	Tampa
Phillips, W. F.....	Chipley

Pope, F. W.	Daytona
Powell, G. M.	Jacksonville
Powers, C. A.	Jacksonville
Price, Mitchell D.	Miami
Price, W. C.	Panama City
Price, W. H.	Miami
Ragland, Reuben	Jacksonville
Railey, L. R.	Miami
Ramsey, Maynard	Jacksonville
Rand, Frederic H., Jr.	Miami
Randall, R. W.	Fort Myers
Raney, Geo. P., Jr.	Tampa
Rasco, R. A.	DeLand
Raulerson, L. A.	Jacksonville
Reaves, O. K.	Tampa
Reese, R. P.	Pensacola
Register, Don.	Winter Haven
Reinstine, Harry	Jacksonville
Reynolds, J. C.	Jacksonville
Ricketson, J. E.	Orlando
Rigby, Geo. N.	Ormond Beach
Riley, Bart A.	Miami
Rinehart, C. D.	Jacksonville
Roberson, L. E.	Live Oak
Robineau, S. P.	Miami
Robinson, C. B.	Orlando
Robles, F. M.	Tampa
Rogers, D. O.	Lakeland
Rogers, Walter F.	Jacksonville
Rogers, W. H.	Jacksonville
Rose, A. J.	Miami
Rouse, D. V.	Avon Park
Rowe, J. A.	Orlando
Rowe, R. H.	Madison
Rowland, W. R.	St. Petersburg
Rutherford, Geo. L.	Jacksonville
Sabel, Marx G.	Jacksonville
Safay, Emmett	Jacksonville
Sams, Murray	DeLand
Sanders, James T.	Miami
Sandler, H. N.	Tampa
Sapp, J. M.	Panama City
Sawyer, Herbert S.	Sarasota
Scarlett, J. A.	DeLand
Scofield, G. W.	Inverness
Scott, Paul k.	Miami

Seeden, R. L.....	Daytona Beach
Sellers, Roy V.....	St. Petersburg
Shackleford, T. M., Jr.....	Tampa
Sheppard, Wm. B.....	Pensacola
Sheppard, Walter O.....	Fort Myers
Shields, Bayard B.....	Jacksonville
Shine, C. L.....	Pensacola
Shipp, Robt. L.....	Miami
Sholtz, David.....	Daytona
Shutts, Frank B.....	Miami
Singletary, J. B.....	Bradentown
Small, A. B.....	Miami
Small, C. C.....	Lake City
Smathers, Frank.....	Miami
Smith, Frank A.....	Orlando
Smith, W. E.....	Ocala
Smith, W. E. B.....	Marianna
Smith, W. P.....	Miami
Smithdeal, Cyrus H.....	Hastings
Smithwick, J. H.....	Pensacola
Spain, Frank O., Jr.....	Moore Haven
Sparkman, S. M.....	Tampa
Sparkman, T. B.....	Tampa
Spencer, Edwin, Jr.....	Lakeland
Stapp, E. L.....	Miami
Steed, M. J.....	Kissimmee
Stephens, J. D.....	Marianna
Stewart, J. J.....	Bradentown
Stewart, I. A.....	DeLand
Stewart, Tom. B.....	DeLand
Stillman, R. E.....	Jacksonville
Stockton, W. T.....	Jacksonville
Stokes, J. Ed.....	Panama City
Stuart, A. T.....	Tampa
Sturkie, R. B.....	Dade City
Sullivan, J. J.....	Pensacola
Sullivan, Jerry J., Jr.....	Pensacola
Surrency, Winder.....	Jacksonville
Sutton, John B.....	Tampa
Swearingen, J. J.....	Bartow
Taylor, Harry G.....	Bartow
Taylor, H. H.....	Key West
Teachy, A. Y.....	Wauchula
Terrell, Glenn.....	Tallahassee
Thetford, A.....	Sanford
Thomas, Elwyn.....	Fort Pierce

Thompson, C. F.....	Tampa
Thompson, Paul S.....	Quincy
Thompson, Uly O.	Miami
Tilden, Wilbur L.....	Orlando
Toomer, W. M.....	Jacksonville
Trammel, Park M.....	Lakeland
Trantham, Thos. S.....	Ocala
Treadwell, E. D.....	Arcadia
Treadwell, J. H.....	Arcadia
Triplett, Jos. I., Jr.....	Jacksonville
Tucker, Eppes, Jr.....	Lakeland
Tucker, W. H.....	Bradentown
Turnbull, Theo. T.....	Monticello
Turner, A. G.....	Tampa
Ulmer, Herman	Jacksonville
Upchurch, F. D.....	Fernandina
Valz, Fred M.....	Jacksonville
Vans Agnew, P. A.....	Orlando
Van Hoy, W. C.....	Live Oak
Vetter, Paul	Jacksonville
Viney, John I.....	St. Petersburg
Voorhis, H. M.....	Orlando
Wade, Leonidas, E.....	Green Cove Springs
Wales, T. F.....	Jacksonville
Walker, G. Edwin.....	Bartow
Walker, G. W.....	Tallahassee
Walker, Stanton	Jacksonville
Wall, Jno. P.....	Tampa
Walton, Judge V.....	Palatka
Warlow, T. Picton.....	Orlando
Watson, E. A.....	Jacksonville
Watson, W. H.....	Pensacola
Watson, Y. L.....	Quincy
Wells, G. B.....	Plant City
Wells, H. H.....	Chipley
Wells, J. R.....	Panama City
West, Thos. F.....	Tallahassee
Wetzel, Elmer	Miami
Whitaker, Karl E.....	Tampa
Whitehurst, Geo. W.....	Arcadia
Whitney, F. A.....	Lakeland
Wideman, Frank	Jacksonville
Wideman, Jerome E.....	West Palm Beach
Williams, Bradford G.....	Lakeland
Williams, Lawrence	Jacksonville
Williams, S. F.....	Jacksonville

Wilson, C. L.....	Marianna
Wilson, E. F.....	St. Petersburg
Wilson, Harold M.....	Miami
Wilson, S. G.....	Bartow
Wilson, T. L.....	Bartow
Winthrop, F. B.....	Tallahassee
Withers, R. W.....	Tampa
Wolfe, J. E.....	Miami
Wright, Silas B.....	DeLand
Yates, J. A.....	Jacksonville
Yonge, J. E.....	Miami
Yonge, J. E. D.....	Pensacola
Zacharias, I. A.....	Jacksonville

Members Classified by Cities and Towns

Arcadia

Bell, W. D.
Brown, R. E.
Jones, R. Percy
Langford, W. C.
Leitner, George
Leitner, W. E.
Treadwell, E. D.
Treadwell, J. H.
Whitehurst, Geo. W.

Avon Park

Rouse, D. V.

Bartow

Boswell, C. A.
Brady, J. W.
Huffaker, R. B.
Johnson, L. C.
Olliphant, H. K.
Olliphant, H. K., Jr.
Swearingen, J. J.
Taylor, Harry G.
Walker, G. Edwin
Wilson, S. G.
Wilson, T. L.

Bradentown

Grichlow, W. B. S.
Dye, Dewey A.
Glazier, H. S.
Singletary, J. B.
Stewart, J. J.
Tucker, W. H.

Brooksville

Coogler, F. B.
Davant, J. C., Jr.
Martin, G. C.

Bushnell

Collum, J. T. M.

Chipley

Phillips, W. F.
Wells, H. H.

Clearwater

Bird, John U.
Jones, M. H.
McMullen, A. B.

Cocoa

Edwards, G. C.

Dade City

Clark, Benjamin F.
Ingram, F. P.
Sturkie, R. B.

Daytona

Brass, B. F.
Fitzgerald, T. E.
Green, Alfred A.
Pope, F. W.
Sholtz, David

Daytona Beach

Horn, Harry A.
Seeden, R. L.

De Funiak Springs

Campbell, A. G.
Campbell, Dan
Flournoy, W. W.

DeLand

Fish, Bert
Hodgen, H. B.
Hull, D. C.
Hulley, Lincoln
Landis, Cary D.
Perkins, Jas. W.
Rasco, R. A.
Sams, Murray
Scarlett, J. A.
Stewart, I. A.
Stewart, Tom B.
Wright, Silas B.

Eustis

Bishop, H. W.

Fernandina

Calkins, J. E.
Upchurch, F. D.

Fort Myers

Alderman, F. C.
Henderson, R. A., Jr.

Fort Myers

Randall, R. W.
Sheppard, Walter O.
Stevens, C. W.

Fort Pierce

Fee, Fred
Hemmings, Frederick L.
Thomas, Elwyn
Parker, Otis R.

Gainesville

Adkins, J. C.
Baxter, E. G.
Clark, Frank
Cockrell, R. S.
Cubberly, F. C.
Fielding, Thos.
Davis, R. E.
Davis, R. W.
Ellis, T. B., Jr.
Hampton, E. B.
Hampton, W. W.
Hampton, W. W., Jr.
Layton, C. R.

Green Cove Springs

Bell, A. H.
Geiger, G. W.
Wade, Leonidas W.

Hastings

Smithdeal, Cyrus H.

Inverness

Dame, H. J.
Scofield, G. W.

Jacksonville

Abrams, A. St. C.
Adair, H. P.
Adams, Thos. B.
Anderson, H. L.
Anderson, Robert
Andrews, M. M.
Axtell, E. P.
Baker, R. A.
Baker, W. H.
Baldwin, L. W.
Barker, W. J.
Barringer, Harrison E.
Barrs, Burton
Bedell, G. C.
Blalock, J. W.
Booth, Lee M.
Boyer, J. A.
Bryan, N. P.
Bunch, James H.
Butler, F. W.
Butler, J. T.
Call, R. M.
Campbell, D. C.
Christie, W. McL.
Clark, H. C.
Clarkson, P. Moody
Cockrell, A. W., Jr.
Cockrell, Alston
Cockrell, Nathan
Cooper, C. P.
Cooper, C. M.
Cooper, J. C.
Cooper, J. C., Jr.
Cooper, J. J. G.
Copp, Cyril C.
Cowles, W. T.
Crawford, J. T. G.
Daniel, R. P.
Dart, Ernest
David, Salem K.
Dewell, Robt. T.
Diver, J. S.
Dodge, J. W.
Doggett, J. L.

Doggett, J. L., Jr.
Doig, David H.
Durrance, Chas.
Durrance, F. M.
Farris, I. L.
Fleming, C. S.
Fleming, F. P.
Fletcher, D. U.
Foster, Stephen E.
Franklin, J. A.
Frazier, W. R.
Gaskins, Perse L.
Gibbs, G. C.
Gibbons, Cromwell
Gray, DeWitt T.
Guest, Lee
Hale, Eugene
Haley, D. G.
Hallowes, W. A., Jr.
Hamilton, F. P.
Hartridge, A. G.
Hartridge, Julian
Hartridge, J. E.
Harwick, W. H.
Heintz, F. J.
Hemphill, E. S.
Holland, J. W.
Holt, F. M.
Howell, C. C.
Howell, L. D.
Hutchinson, Gov.
Hutchinson, Robt. L.
Jackson, W. K.
Jennings, F. E.
Jones, Lake
Jones, M. F.
Kay, W. E.
Kent, W. C.
King, A. H.
King, Roswell
Kloeppe, Robert
Knight, Albion W.
Knight, R. D.
Knight, Telfair
Lamson, Herbert
L'Engle, E. J.

L'Engle, John B.
Lewis, M. W.
Lichliter, C. H.
Liddell, W. W.
Locke, E. O.
Loftin, Scott M.
Long, Martin H.
Madison, Wm. M.
Marks, R. P.
Marks, Samuel R.
Mathews, J. E.
Mathews, S. M.
May, Phil S.
McCaffery, Wm. T.
McCauley, Gordon
McCollum, O. O.
McGarry, Paul D.
McIlvaine, Thos. W.
McNamee, Robt.
McNeill, A. D.
Metcalf, Ernest
Milam, A. Y.
Milam, B. R.
Milam, R. R.
Miller, A.
Milton, L. R.
Mitchell, E. W.
Morgan, L. Z.
Noble, Carl
Noble, Fred B.
Odom, P. H.
Osborne, H. P.
Patterson, Giles
Peeler, C. B.
Peeler, J. M.
Pelot, C. E.
Phillips, H. B.
Powell, G. M.
Powers, C. A.
Ragland, Reuben
Ramsey, Maynard
Raulerson, L. A.
Reinstine, Harry
Reynolds, J. C.
Rinchart, C. D.
Rogers, Walter F.

Rogers, W. H.
Rutherford, Geo. L.
Sabel, Marx G.
Safay, Emmett
Shields, Bayard B.
Stillman, R. E.
Stockton, W. T.
Surrency, Winder
Toomer, W. M.
Triplett, Jos. I., Jr.
Valz, Fred M.
Vetter, Paul
Ulmer, Herman
Wales, T. F.
Walker, Stanton
Watson, E. A.
Wideman, Frank
Williams, Lawrence
Williams, S. F.
Yates, J. A.
Zacharias, I. A.

Jasper

Frink, R. L.

Key West

Allen, G. W.
Gomez, Arthur
Harris, W. Hunt
Knowles, C. L.
Malone, Wm. H.
Taylor, H. H.

Kissimmee

Cadel, John S.
Garrett, George P.
Johnston, Pat
Steed, M. J.

Lake City

Gillen, Guy
Palmer, G. O.
Small, C. C.

Lakeland

Edwards, John S.
Judson, C. D.

Rogers, D. O.
Spencer, Edwin, Jr.
Trammel, Park M.
Tucker, Eppes, Jr.
Whitney, F. A.
Williams, Bradford G.

Leesburg

Futch, T. G.
Gaines, J. B.

Live Oak

Blackwell, C. D.
Caldwell, H. S.
Hardee, C. A.
Harrell, J. F.
Johnson, J. B.
Roberson, L. E.
Vanhoy, W. C.

MacClenny

Cone, W. B.
Brown, M. M.

Madison

Kelly, J. R.
Rowe, R. H.

Manatee

Gillespie, J. H.

Marianna

Buford, R. H.
Calhoun, J. M.
Carter, John H.
Farley, W. B.
Lewis, A. E.
Milton, W. H.
Smith, W. E. B.
Stephens, J. D.
Wilson, C. L.
Carter, Paul

Melbourne

Peel, David

Miami

Atkinson, H. F.
Axelroad, Benjamin
Barco, Samuel J.
Barnes, Paul D.
Bensen, Clifton D.
Billingsley, J. L.
Blakley, Norman N.
Botts, Fred
Bowen, Crate D.
Branning, H. P.
Brown, Armstead
Bryan, W. J.
Burdine, R. F.
Carson, J. M.
Cason, F. W.
Clark, Frank, Jr.
Clarkston, Philip
Eyles, H. H.
Freeland, W. L.
Gautier, R. B.
Gramling, John C.
Hazelstine, A. H.
Heath, N. McK.
Hefferman, D. J.
Hudson, F. M.
Kurtz, E. B.
Mershon, W. L.
Morrow, C. J.
Murrell, John M.
Payne, Walter D.
Penny, A. D.
Price, Mitchell D.
Price, W. H.
Railey, L. R.
Rand, Frederic H., Jr.
Riley, Bart A.
Robineau, S. P.
Rose, A. J.
Sanders, James T.
Scott, Paul R.
Shipp, Robt. L.
Shutts, Frank B.
Small, A. B.
Smathers, Frank

Smith, W. P.
Stapp, E. L.
Thompson, Uly O.
Wetzel, Elmer
Wolfe, J. E.
Wilson, Harold M.
Yonge, J. E.

Milton

Clark, W. W.
Laird, H. S.
Lewis, G. F.

Montgomery, Ala.

Clayton, H. D. (Honorary)

Monticello

Bird, Thos. B.
Clarke, S. D.
Turnbull, Theo. T.

Moore Haven

Kurtz, R. E.
Spain, Frank O., Jr.

Ocala

Anderson, R. L.
Anderson, Robt. L., Jr.
Bell, Joseph
Bullock, R. B.
Burford, R. A.
Duval, L. W.
Gober, Wm.
Hampton, H. M.
Hocker, Wm.
Martin, E. H.
McConathy, R.
Smith, W. E.
Trantham, Thos. S.

Okeechobee

Hamrick, R. E.
Harwick, R. E.
Parker, Geo. F.

Orlando

Akerman, Alexander
 Andrews, Chas. O.
 Boyer, C. A.
 Bridges, Edward S.
 Cheney, J. M.
 Crawford, W. B.
 Davis, E. W.
 Durrance, S. E.
 Giles, LeRoy B.
 Hogan, H. H.
 Hutchins, J. H.
 Jones, J. C.
 Jones, Joseph H.
 Lemire, C. E.
 Maguire, K. F.
 Massey, L. C.
 Newell, Leigh G.
 Palmer, Allison E.
 Ricketson, J. E.
 Robinson, C. B.
 Rowe, J. A.
 Smith, Frank A.
 Tilden, Wilbur L.
 Vans Agnew, P. A.
 Voorhis, H. M.
 Warlow, T. Picton

Ormond Beach

Rigby, Geo. N.

Palatka

Blackwell, Joel N.
 Calhoun, Julian C.
 Hilburn, S. J.
 Lamb, J. P.
 Long, A. V.
 Merryday, H. C.
 Odom, A. H.
 Walton, Judge V.

Panama City

Middleton, D. K.
 Price, W. C.
 Sapp, J. M.
 Stokes, J. Ed.
 Wells, J. R.

Pensacola

Beall, Philip D.
 Beggs, E. D.
 Binkley, A. C.
 Campbell, Patillo
 Carter, Dickson H.
 Carter, F. B.
 Hoffman, G. E.
 Jones, C. M.
 Jones, Jno. B.
 Kehoe, J. W.
 Lischkoff, Leon N.
 Maxwell, E. C.
 Pasco, S., Jr.
 Reaves, R. P.
 Sheppard, Wm. B.
 Shine, C. L.
 Smithwick, J. H.
 Sullivan, J. J.
 Sullivan, Jerry J., Jr.
 Watson, W. H.
 Yonge, J. E. D.

Perry

Davis, W. B.
 Hendry, W. T.

Plant City

Wells, G. B.

Quincy

Gregory, E. P.
 Love, E. C.
 Thompson, Paul S.
 Watson, Y. L.

River Junction

Crocker, O. Lamar

Sanford

Decottes, Geo. A.
 Dickinson, J. J.
 Householder, E. F.
 Maines, Schelle
 Thetford, A.

San Juan, Porto Rico

Odlin, A. F.

Sarasota

Perry, Wm. Y.
Sawyer, Herbert S.

Starke

Adkins, A. Z.
Crews, A. S.
Futch, J. E.

St. Augustine

Calhoun, E. N.
Dewhurst, W. W.
Dunham, David R.
MacWilliams, W. A.

St. Petersburg

Nelson, L. W.
Bell, J. D.
Booth, James
Cook, Bayard S.
Dunn, Edgar G.
Harris, John D.
King, Wm. G.
Lane, Freeman P.
Merrell, Herman
Owen, Crockett
Rowland, W. R.
Sellers, Roy V.
Viney, John I.
Wilson, E. F.

Tallahassee

Browne, Jefferson B.
Davis, F. H.
DeVane, Dozier A.
Diamond, Sidney H.
Edmundson, J. A.
Ellis, W. H.
Henderson, J. W.
Hodges, W. C.
Johnston, Greene S., Jr.
McCord, Guyte P.
Meginnis, B. A.
Myers, F. T.
Owen, W. J.
Perkins, G. B.
Terrell, Glenn

Walker, G. W.
West, Thos. F.
Winthrop, F. B.

Tampa

Andrews, Guy A.
Baya, H. P.
Borchardt, Samuel
Brodie, Robt.
Caraballo, M.
Carlton, Doyle E.
Carter, W. A.
Cohen, M. H.
Drumwright, E. B.
Farris, C. C.
Frazier, Jos. W.
Glenn, Jas. F.
Gibbons, M. G.
Gibson, Lee S.
Givens, Morris
Gordon, H. C.
Graham H. S.
Hampton, H. S.
Himes, J. F.
Hunter, Wm.
Jackson, W. H.
Knight, P. O.
Larimore, G. L.
Lucas, T. E.
Lunsford, J. J.
Mabry, G. E.
Macfarlane, Hugh C.
Macfarlane, Howard P.
MacFarlane, M. B.
Martin, W. T.
McKay, K. I.
McMullen, Alonzo B.
McMullen, D. C.
Morris, J. W., Jr.
Peacock, H. Blaine
Pettingill, N. B. K.
Phillips, H. S.
Raney, Geo. P., Jr.
Reaves, O. K.
Nobles, F. M.
Sandler, H. N.
Shackleford, T. M., Jr.

Sparkman, S. M.
Sparkman, T. B.
Stuart, A. T.
Sutton, John B.
Thompson, C. F.
Turner, A. G.
Wall, Jno. P.
Whitaker, Karl E.
Withers, R. W.

Tavares

Duncan, H. C.
Hamlin, R. P.
Hunter, J. W.
Kennedy, Wm.

Titusville

Newman, Leonard B.

Washington, D. C.

Hill, Wm. H.

Watertown

Huntley, J. P.

Wauchula

Teachy, A. Y.

West Palm Beach

Abbott, C. D.
Bussey, H. L.
Carmichael, M. D.
Chillingworth, C. E.
Coleman, Geo. W.
Currie, Geo. G.
Donnell, E. B.
Pettibone, Frank A.
Wideman, Jerome E.

Winter Haven

Register, Don.

Directory of Local Bar Associations

Alachua County Lawyers' Club

President, Robert E. Davis, Gainesville, Florida.

Secretary, T. B. Ellis, Jr., Gainesville, Florida.

Bar Association Seventeenth Circuit

President, E. W. Davis, Orlando, Florida.

Secretary, G. P. Garrett, Kissimmee, Florida.

Brooksville Bar Association

President, G. V. Ramsey, Brooksville, Florida.

Secretary, Hugh Hale, Brooksville, Florida.

Dade County Bar Association

President, Armstead Brown, Miami, Florida.

Secretary, L. Earl Curry, Miami, Florida.

East Volusia County Bar Association

President, W. F. Pope, Daytona, Florida.

Secretary, David Sholtz, Daytona, Florida.

Hillsborough County Bar Association

President, W. M. Taliaferro, Tampa, Florida.

Secretary, L. L. Parks, Tampa, Florida.

Key West Bar Association

President, G. B. Patterson, Key West, Florida.

Secretary, W. Hunt Harris, Key West, Florida.

Jacksonville Bar Association

President, A. Miller, Jacksonville, Florida.

Secretary, Ernest Metcalf, Jacksonville, Florida.

Lake County Bar Association

President, H. C. Duncan, Tavares, Florida.

Secretary, W. M. Kennedy, Tavares, Florida.

Lee County Bar Association

President, Frank C. Alderman, Fort Myers, Florida.

Secretary, R. A. Henderson, Jr., Fort Myers, Florida.

Manatee County Bar Association

President, J. J. Stewart, Bradentown, Florida.

Secretary, H. S. Glazier, Bradentown, Florida.

Orange County Bar Association

President, L. C. Massey, Orlando, Florida.

Secretary, LeRoy B. Giles, Orlando, Florida.

Palm Beach County Bar Association

President, M. D. Carmichael, West Palm Beach, Florida.

Secretary, John Zeigler, West Palm Beach, Florida.

Pensacola Bar Association

President, C. M. Jones, Pensacola, Florida.

Secretary, John M. Coe, Pensacola, Florida.

Pinnellas County Bar Association

President, Thomas Hamilton, Clearwater, Florida.

Secretary, John D. Harris, St. Petersburg, Florida.

Polk County Bar Association

President, John J. Swearingen, Bartow, Florida.

Secretary, C. M. Wiggins, Bartow, Florida.

St. Johns County Bar Association

President, W. A. MacWilliams, St. Augustine, Florida.

Secretary, P. R. Perry, St. Augustine, Florida.

St. Lucie County Bar Association

President, Otis R. Parker, Fort Pierce, Florida.

Secretary, Elwyn Thomas, Fort Pierce, Florida.

Seminole County Bar Association

President, Thomas E. Wilson, Sanford, Florida.

Secretary, Schelle Maines, Sanford, Florida.

Constitution and By-Laws of the Florida State Bar Association

NAME

ARTICLE I. This Association shall be known as "The Florida State Bar Association."

OBJECT

ARTICLE II. The Association is formed to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold the standard of integrity, honor and courtesy in the legal profession, to encourage legal education, and to cultivate a spirit of cordiality and brotherhood among the members of the Bar.

MEMBERSHIP

ARTICLE III. The members of the legal profession of the State of Florida attending this convention, this fifth day of February, 1907, are hereby declared to be members of this Association, provided they shall, during its present session, sign this Constitution and pay the admission fee hereinafter provided.

Any other member of the legal profession in good standing, residing or practicing in the State of Florida, who shall have been at the Bar of this State for at least one year, may become a member upon nomination and vote of the Association or action of its Committee on Admission, as hereinafter provided.

ELECTION OF MEMBERS

ARTICLE IV. Application for membership may be made to the President of the Association, and be by him at once reported to the Committee on Admissions, which shall thereupon examine the same and report thereon with its recommendation to the Association at its next annual meeting or to the next meeting of the Executive Committee, whichever occurs first. The members of the Association or of the Executive Committee at such meeting shall thereupon vote on said application. Such vote may be either by ballot or *vive voce*. When applications are referred to an annual meeting of the Association, one negative vote in every five shall defeat an election. When referred to a meeting of the Executive Committee, one vote in the negative shall defeat an election.

OFFICERS

ARTICLE V. The officers of the Association shall be a President, who shall be ineligible to re-election on the expiration of his term; one Vice-President from each judicial circuit represented by membership in the Association; a Secretary and a Treasurer. All of these shall be elected at the annual meeting and hold their offices until the next annual meeting of the Association, and until their successors are elected. A majority of the votes cast at such annual meeting shall be necessary to the election of officers, including the election of the Executive Council, and shall in all cases be by ballot.

COMMITTEES

ARTICLE VI. At the annual meetings the Association shall also elect an Executive Council, to be composed of four members, of which council the President, Secretary and Treasurer shall be members ex-officio. Said members of the Executive Council shall hold their offices for one year from the date of their election, and until their successors are elected.

The President shall, with the approval of the Executive Council, appoint the following standing committees, to-wit:

- A Committee on Admissions.
- A Committee on Judicial Administration and Legal Reform.
- A Committee on Legal Education.
- A Committee on Grievances.
- A Committee on Legal Biography.
- A Committee on Ethics.

If any member of a standing committee shall fail to attend any annual meeting, his absence shall create a vacancy, and the President of the Bar Association may, in his discretion, fill such vacancy by appointment.

Each standing committee shall be composed of five members of the Association, and a majority of the members of each of said committees shall constitute a quorum to transact business.

Each committee shall, at each annual meeting, report in writing a summary of its proceedings since the last annual report, together with any suggestions deemed suitable and pertinent to its powers, duties or business.

A general summary of all such annual reports and the proceedings of the annual meeting shall be prepared and printed by and under the direction of the Executive Council, together with the Constitution, By-Laws, names and residences of officers, standing committees and members of the Association, as soon as practicable after such annual meeting.

PRESIDENT

ARTICLE VII. The President, or in his absence the Senior Vice-President in age, present, shall preside at all meetings of the Association, and the President shall deliver an address at the opening of the annual meeting next after his election.

EXECUTIVE COUNCIL

ARTICLE VIII. This council shall manage the business and affairs of the Association subject to the provisions of the Constitution and By-Laws, and shall be vested with the title to all its property as trustees thereof, until the Association shall be incorporated, and if incorporated shall have power to accept the act of incorporation for and on behalf of the corporation and all its members, and shall prepare and propose such By-Laws for the Association, in addition to those adopted by it at its first session, as said committee shall deem expedient, which when adopted by any annual meeting of this Association, shall become part of the By-Laws of the same.

COMMITTEE ON ADMISSION

ARTICLE IX. It shall be the duty of this committee to examine into the qualifications of every candidate proposed to the President for admission into this Association and to report thereon with recommendations to the next annual meeting of this Association or the next meeting of the Executive Committee, whichever first occurs. The proceedings of this committee shall be deemed confidential and shall be kept secret except so far as the report or recommendation of the same shall be necessarily and officially made to the Association or the Executive Committee.

COMMITTEE ON JUDICIAL ADMINISTRATION AND REFORM

ARTICLE X. It shall be the duty of this committee to take notice of all proposed changes of the law, and to consider and report to this Association such amendments of the law as in its opinion should be adopted, and also to observe the practical working of the judicial system throughout the State, and recommend by written or printed report, from time to time, any changes which observation or experience may suggest should be made therein.

COMMITTEE ON LEGAL EDUCATION

ARTICLE XI. It shall be the duty of this committee to examine and report upon any proposed changes in the system of legal education, and shall make such suggestions as shall seem pertinent thereto, also to examine the practical workings of the present law in regard to the admission of members of the Bar to practice in this State, and to make such suggestions in relation to the same as the committee shall deem advisable.

The Committee on Education may cause exception to be filed, and prosecute at the expense of the Association, to the admission to the Bar of all persons whom the said committee believes are not qualified to be admitted.

COMMITTEE ON GRIEVANCES

ARTICLE XII. This committee shall receive and hear all complaints preferred by any member of this Association against any other member for misconduct in his relations to the Association or in his profession, or affecting interests of the legal profession, the practice of the law, and the administration of justice; provided said complaints shall be in writing, plainly and specifically stating the matter complained of, and subscribed by the complainant.

All complaints so made shall be considered and disposed of by this committee in the manner provided in the By-Laws.

The proceedings of this committee shall be deemed confidential and kept secret except so far as written or printed reports of the same shall be necessarily and officially made to the Association.

COMMITTEE ON LEGAL BIOGRAPHY

ARTICLE XIII. The Committee on Legal Biography shall provide for the preservation, among the archives of the Association, of suitable printed or written memorials of the lives and characters of deceased members of the Florida Bar.

COMMITTEE ON ETHICS

ARTICLE XIV. This Committee on Ethics shall consider and report, from time to time, such matters bearing upon the Ethics of the profession as to the Committee shall seem good.

SECRETARY

ARTICLE XV. The Secretary shall keep a record and conduct the correspondence of the Association, and perform the usual duties of such office.

TREASURER

ARTICLE XVI. The Treasurer shall collect, and by order of the Executive Committee disburse, all funds of the Association, keep regular accounts, which at all times shall be open to the inspection of any member of the Executive Council, and shall make annual reports of all the same to this Association. The Treasurer shall give bond in such sum as the Executive Council shall decide; the cost of suretyship to be paid by the Association. All funds of the Association shall be deposited in its name, in such bank or other financial institution as the Executive Council shall select.

DUES

ARTICLE XVII. The annual dues of members shall be ten dollars, to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default.

EXPULSIONS

ARTICLE XVIII. Any member may be suspended or expelled by a two-thirds vote of this Association at any annual meeting for misconduct in relation to the Association or in his profession, after conviction thereof, by such method of procedure as may be prescribed by the By-Laws.

FINAL ACTION

ARTICLE XIX. No action of this Association of a permanent nature or recommending changes in the law or administration of justice, shall be had until the subject-matter thereof shall have been reported upon by the appropriate committee, to which the same shall have been referred, unless this regulation shall be suspended by a two-thirds vote of the members voting thereon.

ANNUAL MEETING

ARTICLE XX. This Association shall meet annually, at such time and place as the Executive Council may select, and at such other times and places in accordance with the By-Laws. It shall be the duty of the Secretary to mail to each member a written or printed notice of the time and place of each annual or special meeting, at least ten days in advance of such meeting. Those present at such meeting shall constitute a quorum, provided that at any special meeting not less than fifteen members shall constitute a quorum.

AMENDMENTS

ARTICLE XXI. This Constitution may be altered or amended at any annual meeting on recommendation of the Executive Council, by a vote of the majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

VACANCIES

ARTICLE XXII. The President shall have power to fill vacancies that may occur, appointees to hold until the next meeting of the Association.

PAPERS AND ADDRESSES

ARTICLE XXIII. The President shall select some person to make an address at the next annual meeting, on some subject to be

selected by said person pertinent to the objects of this Association, and also not exceeding five members of the Association who shall be requested to prepare and read papers at such meeting.

AMENDMENT OF BY-LAWS

ARTICLE XXIV. The By-Laws may be altered or amended at any annual meeting on recommendation of the Executive Council by a vote of a majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

By-Laws

MEETINGS OF THE ASSOCIATION

I. The Order of Business of the annual meetings shall be as follows:

- (a) Annual address of the President.
- (b) Report of Committee on Admission and Election of Members.
- (c) Report of the Secretary.
- (d) Report of the Treasurer.
- (e) Report of Standing Committees as follows:
 - Executive Council.
 - On Judicial Administration and Legal Reform.
 - On Legal Education.
 - On Grievances.
 - On Legal Biography.
 - On Ethics.
- (f) Reports of Special Committees.
- (g) The appointment of Standing Committees.
- (h) Miscellaneous Business.
- (i) The Nomination and Election of Officers.

The address to be delivered by the person invited by the President shall be at the morning session of the second day of the annual meeting, and the reading of papers by the members appointed to read the same shall be on the same day, unless the President shall designate some other time for the address and reading of papers. After the reading of each paper, an opportunity shall be given for discussion on the topic of the paper.

II. No person taking part in a discussion shall speak more than ten minutes at a time or more than twice on one subject, without the consent of the Association.

PRIVILEGE OF THE FLOOR

III. At any of the meetings of the Association, members of the Bar of any foreign country or of any State other than Florida, may be admitted to the privilege of the floor during any such meetings.

PAPERS, PRINTING OF SAME, ETC.

IV. All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of committees and all proceedings at the annual meeting shall be printed; but no other address or paper read shall be printed except by order of the Executive Council. The Executive Council, as a Committee on Publication, shall meet within one month after each annual meeting, at such time and place as its chairman shall appoint, to perform the above duties.

TERM OF OFFICE OF OFFICERS AND MEMBERS OF COMMITTEES

V. The term of office of all officers, including the Executive Council, elected at any annual meeting, shall commence at the adjournment of such meeting; but the terms of office of the members of the several committees appointed by the President, shall commence immediately upon their appointment.

OFFICERS OF COMMITTEES, ETC.

VI. In appointing Committee the president shall in each case designate one member thereof to act as chairman. Each standing committee shall continue until its successor shall be appointed.

MEETINGS OF STANDING COMMITTEES

VII. All standing committees shall meet on the days preceding each annual meeting, at the place where the same is to be held, at such hour as the respective chairmen shall designate.

SPECIAL MEETINGS

VIII. Special meetings of any committee may be held at such times and places as the chairman thereof may appoint.

TREASURER'S REPORT

IX. The Treasurer's report shall be examined and audited annually before its presentation to the Association, by two members of the Executive Council, to be appointed by the chairman thereof.

COMPLIMENTARY RESOLUTIONS

X. No resolution complimentary to any officer or member for any service performed, paper read or address delivered, shall be considered by the Association.

ORDER OF BUSINESS

XI. The Order of Business may be changed at any meeting by a vote of the majority of the members present, and except as otherwise provided by the Constitution or By-Laws, the usual parliamentary rules and orders will govern the proceedings.

CANDIDATE FOR MEMBERSHIP

XII. Applications for membership must be in writing and addressed to the President. Each application must be accompanied by a deposit to cover one year's dues in the Association. All applications shall be referred by the President to the Committee on Admissions. Applications shall state the name and place of applicant's admission to the Bar and such particulars as may best make known his character and professional status. No rejected candidate shall be again proposed for membership until after the expiration of two years. If any person elected as a member does not within three months after notice thereof sign the Constitution or by letter to the Secretary authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

ANNUAL DUES

XIII. If any member shall fail to pay his yearly dues for three months after the same became payable, it shall be the duty of the Treasurer to notify him by mail of his default, and should such defaulting member continue in default for three months thereafter, the same shall be reported to the Executive Council, which may, by order, without further notice, cause the name of such member to be stricken from the rolls.

COMPLAINTS

XIV. Whenever a complaint is presented to the Committee on Grievances, if the committee shall be of the opinion that the matters alleged are of sufficient importance, it shall cause to be served upon the person complained of, a copy of the complaint, together with not less than ten days' notice of the time and place of investigation and a similar notice shall be served upon the complainant. The answer to such complaint shall be in writing. At the time and place so appointed, or to which the hearing may be adjourned, the committee shall proceed to consider and case upon the complaint and answer (if any is interposed) and the evidence. Each party may appear personally and by counsel, who must be members of the Association. Witnesses shall vouch for the truth of their statements on their word of honor. If witnesses summoned by the committee are members of the Association and refuse or neglect to obey the summons, they shall be reported to the Association for its action. The evidence and the parties and their counsel being heard, the commit-

tee shall make its decision, and if it finds the complaint to be true and of sufficient importance it will so report to the Association with its request of either party, it may also report the evidence or any portion thereof.

The Association will take such action on the report as it shall see fit, but no member shall be expelled or suspended unless by a vote of at least two-thirds of the members present and voting.

SPECIAL MEETINGS

XV. Special meeting of this Association, upon thirty days' notice thereof to the members, may be called by the Secretary upon request of the Executive Council, whenever in its judgment the business to be attended to shall be of sufficient exigency or importance to justify such call.

WITHDRAWALS

XVI. Any member of the Association may withdraw from the same upon full payment of all dues upon notice to that effect in writing, transmitted to the Secretary and by him referred to the Executive Council and approved by said council or the chairman thereof, unless at the time of such application for withdrawal complaint against such member shall have already been made by some member of the Association, as hereinafter provided, in which case no such application for withdrawal shall be considered by the Executive Council.

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PROCEEDINGS
of the
SIXTEENTH ANNUAL SESSION
of the
**FLORIDA STATE
BAR ASSOCIATION**



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Sixteenth Annual Session
Of the
Florida State Bar Association

MIAMI, FLORIDA

March 19 and 20, 1923

Members and Visitors Registered

Bartow

Walker, G. Edwin
Wilson, S. G.

Bradentown

Crichlow, W. B. S.

Carrollton, Illinois

Henshaw, Thos.

Chicago, Illinois

Eastman, Albert N.

Chipley

Wells, H. H.

Dayton, Ohio

Cox, James M.

DeLand

Landis, Cary D.

Eustis

Newell, Will O.

Ft. Lauderdale

Pope, W. M.

Ft. Myers

Henderson, R. A., Jr.

Ft. Pierce

Carpenter, E.
Fee, Fred

Ft. Smith, Arkansas
Kleinman, S.

Gainesville

Hampton, E. B.
Hampton, W. D.

Jacksonville

Anderson, Robert H.
Axtell, E. P.
Baldwin, L. W.
Gibbons, Cromwell
Hutchinson, Gov.
Kay, W. E.
May, Philip S.
Miller, Austin
Osborne, H. P.
Peeler, C. B.
Ragland, Reuben
Rogers, Wm. H.
Triplett, J. I., Jr.
Ulmer, Herman
Watson, Ernest O.

Jasper

Frink, Russell L.

Key West

Taylor, H. H.

Kissimmee

Garrett, G. P.

Kokomo, Indiana

Overton, W. C.

Lansing, Michigan

Chace, Chas. H.

Louiville, Kentucky

Cook, C. Lee

Marianna

Carter, John H.

Carter, Paul

McPherson, Kansas

Galle, P. J.

Maxwell, J. G.

Miami

Atkinson, Edith M. (Mrs.)

Atkinson, H. F.

Axleroad, Benjamin

Barco, Samuel J.

Barnes, Paul D.

Bensen, Clifton D.

Benz, John S.

Billingsley, J. L.

Blakley, Norman N.

Blanton, W. F., Hon.

Botts, Fred

Bowen, Crate D.

Branning, H. P.

Brown, Armstead

Bryan, W. J.

Burdine, R. F.

Carson, J. M.

Cason, F. W.

Clark, Frank, Jr.

Clarkson, Philip

Evans, W. I.

Eyles, H. H.

Freeland, W. L.

Gautier, R. B.

Gordon, Harry

Gramling, John C.

Hall, Lewis M.

Hazelstine, A. H.

Heath, N. McK.

Hefferman, D. J.

Heyser, A. E.

Hudson, F. M.

Knight, Floyd L.

Kurtz, E. B.

Mershon, M. L.

Morrow, S. Grover

Murrell, John M.

Neely, John L.

O'Kell, George M.

Payne, Walter D.

Penny, A. D.

Prevatt, P. G.

Price, Mitchell D.

Price, W. H.

Railey, L. R.

Rand, Frederic H., Jr.

Riley, Bart A.

Robineau, S. P.

Rose, A. J.

Scott, Paul R.

Semple, Edward L.

Shipp, Robert L.

Shutts, Frank B.

Simmons, J. P.

Small, A. B.

Smathers, Frank

Stapp, E. L.

Taylor, Paul C.

Taylor, R. R., Jr.

Thompson, Uly O.

Warfleet, Thos. B.

Watson, J. W., Jr.

Wetzel, Elmer

Willard, Ben C.

Wilson, Harold M.

Worley, G. A., Jr.

Yonge, J. E.

Milton

McGeachy, R. A.

Montgomery, Alabama

Clayton, H. D.

Jernigan, Charles

New York, New York

Dunn, Wm. H.

Jacobson, Eldred E.

Ocala

Burford, R. A.

Okeechobee

Hamrick, R. E.

Orlando

Akerman, Alexander

Andrews, C. O.

Hutchinson, J. H.

Maguire, R. F.

Smith, Frank A.

Voorhis, H. M.

Panama City

Wells, J. R.

Tallahassee

Browne, Jefferson B.

Ellis, W. H.

Tampa

Caraballo, M.

Gober, Wm. M.

Hunter, Wm.

Morris, Jas. W., Jr.

Pettingill, N. B. K.

Raney, G. P.

Reaves, O. K.

Shackleford, T. M., Jr.

Sutton, John B.

Turner, A. G.

Toronto, Canada

Heyd, Louis F.

Washington, D. C.

Ausbury, T. T.

West Palm Beach

Chillingworth, C. E.

Donnell, E. B.

Pettibone, Frank A.

Morning Session

MARCH 19TH

The Sixteenth Annual Session of the Florida State Bar Association convened in the United States District Court Room, on March 19, 1923, at 10:00 A. M., with President Armstead Brown in the chair.

THE PRESIDENT: It is now my privilege to call to order the Sixteenth Annual Convention of the Florida State Bar Association. We will immediately enter upon the regular program of our convention. I want to say that after wandering for many years in the wilderness, I am indeed glad that the Florida Bar Association has once more entered the Promised Land, and that we can have to welcome you here the distinguished publisher of the *Miami Herald*, and one of the leaders of the bar of this section of the state, the Honorable Frank B. Shutts, who will now deliver the address of welcome.

MR. FRANK B. SHUTTS (of Miami): Mr. President, gentlemen of the Florida bar, ladies and gentlemen:

One of the greatest honors which can come to any man in this world, as it seems to me, is to be a lawyer of high reputation and established character. But, of course, there can be no established legal character in the absence of a full realization of the duties and obligations of the profession. To my mind, the legal profession always has been, and now more than ever is, the bulwark of the constitutional liberties of our people. Whenever this profession shall fail in its duty to our citizenship, then the walls of the civilization which have been so carefully built and maintained for nearly a century and a half will begin to crumble, and how soon the disastrous end will surely come, no man can tell.

One of the greatest privileges which, as it seems to me, could come to any lawyer is to be able to live and practice his craft in this fair State of Florida, in its splendid courts, before its great judges, amid its great business prosperity, its sweet sunshine, its rare foliage and its charming and delightful people. To be a lawyer of character and integrity, recognized as such by the community in which he lives, is, as I have stated, a great honor; to be able to serve his constituents in this magnificent commonwealth is a great privilege, but to be a lawyer, not only practicing somewhere in Florida, but able to come to Miami, even if only once in a while, is a blessing far beyond my feeble powers of adequate expression. I speak this only to the members of the Florida bar. The proprieties forbid any invidious comparisons directed to our distinguished visitors from other States and other lands.

When I first learned that I was selected to deliver the address of welcome upon this occasion, I had a dream of a great address, formulated, like Webster's reply to Hayne, through long years of great mental activity, which I hoped to be able to impose upon you today. I intended that it should be one which, flowing out to the world through the channels of the Associated Press and other avenues of publicity, would hurtle down the corridors of time, not only hurtle but sound and resound again and again, not only in America, but beyond the far reaches of the world. I felt that I would come with a message, which, at this early stage of the proceedings, would be listened to with politeness, if not with patience, and there would be nothing for this assemblage to do except to bear it and hear it through.

I intended to go back to the fountain head of our liberties, our hopes and our ambitions, the Constitution of the United States, and to expound it as the Gospel of our Salvation. For my text I selected that portion of the Preamble which states that the Union was formed, among other things, to insure domestic tranquility. Tranquility means peace. Domestic tranquility means peace at home. All powers not expressly or impliedly granted to the Republic are reserved to the States. All powers not expressly or impliedly granted to the States are reserved to the people. It was "We, the people," who wrote the Constitution. "And so," said I, in my most gracious and convincing manner, "by what token, either express or implied, do those of our citizens attempt to embroil our country in an effort to insure foreign tranquility as well." You see it would have been a pretty question to expound. The right was neither granted nor reserved, and I found that some of the people were forward-looking and the rest were cross-eyed. I had all the history, all the law, all the precedents, all the commonsense, all the selfishness, all the loyalty, all the foolishness, all the love and devotion of a thousand years to draw from. Did I get anywhere? I did not, I tangled my feet in the vicious webs and came out where I started. I asked for a token. I searched for a sign and found it not.

A new start was made. I attempted to show why this great Republic should offer to all nations an example of virtue, sobriety and square dealing. I wanted to make a plea for mankind, not showing that all men are good, but that the way to make them better is to trust the whole people. I wanted my hearers to believe that no class is sacred enough to rule the Republic, and no mass great enough to ruin it; that what we need in this country is not forced equality of conditions and estates, but a true equalization of burdens and opportunities so that every man shall have a fair chance. I wanted to plead for the freedom of the American people, and to ask that it might be safeguarded by law; and to convey the impression that we, as lawyers, would always stand for the belief that the inalienable rights of man to life, liberty and the pursuit of happiness were not only given by the Constitution of the United States, but were endowed by God. But I found myself confronted with a delegation who insisted that freedom,

as freedom per se, is inconsistent with the principles of our Government, and that liberty is only that state of physical and mental endurance which may be fixed upon us by the voters of our own and other communities. I concluded that liberty can only be guarded by law when the law is protected by the people, but that the law and the people seem to be forever chasing each other round and round, backward and forward, hither and yon in an ever-widening circle of reform and reconciliation and otherwise. I knew that every man should have a fair chance; but, while we as lawyers should stand for the inalienable right of every man and woman to life, liberty and the pursuit of happiness, I reluctantly decided that I didn't know how to get them for my client, myself or for anybody else.

Then, while wandering in this maze of bewilderment and uncertainty, like Saul on his way to Damascus, I was struck by a great light. Suddenly, it occurred to me that it was neither the duty nor the province of an official welcomer to make arguments upon any subject upon which there is a division of opinion, or to take more time than is absolutely necessary to express our great delight that you are here today.

And so, I am not going to deliver that speech. It will not go over the wires of the Associated Press. It will not be emblazoned on the walls of history, or go hurtling down the corridors of time. It has been lost, somewhere, "in the dim glimpses of the moon," much to your chagrin, I know, and much more to mine; and so I come back now to the main purpose of my presence here.

As a member of the State Bar Association and as a citizen of the city of Miami, representing the local bar and our people as a whole, I bid you welcome to the open arms of all of us. We have no key to the city to hand you, with our compliments. It has been given away so many times that its chain of title has long ago been lost. We have no latch string to offer you. We have no latches. We have no doors. The entire town and every home in it is wide open to you and yours. We believe in Miami, and we love it. We know there is no such other city in all the world, and never has been. We do not believe that as far as its beauty and situation and progress and attractiveness is concerned it will ever have a peer. We who live here are unanimous upon this subject. If you cannot join us in that thought this morning, we shall arrange to change your minds before you leave Miami. Our greatest and sincerest hope is that you will find our hospitality as fervent and potent as our self-esteem.

Fifty-five thousand people are here today ready and anxious to do you honor and serve your convenience. They are your friends, anxious to join in a season of mutual enjoyment. Your slightest wish will be anticipated. Your merest suggestion will be gratified. You will go from here greatly benefited by these wise and interesting deliberations, but in the meantime whatever you see and want, take it; whatever you want and don't see, ask for it, and if we have got it, it is yours.

THE PRESIDENT: We will now ask one of the leaders of that great bar, the bar of Jacksonville, Florida, to respond on behalf of the delegates, to this address of welcome by Mr. Shutts — Mr. E. P. Axtell, of Jacksonville.

MR. E. P. AXTELL (of Jacksonville): Mr. President, Mr. Shutts, and members of the Miami Bar, and ladies and gentlemen of the State Bar Association: To adequately respond to this address of welcome would require the eloquence of Demosthenes, or that of Webster, or of the silver-tongued orator of Miami. I possess not this faculty, and so I can only say to you, Mr. Shutts, and to the other members of the bar of Miami, that we are truly grateful for this gracious welcome that you have given us.

To those of us who have not been to Miami for several years, the progress of this town is wonderful. It seems but yesterday when Miami was but a hamlet, without any means of reaching the outside world except by sailboat. I believe in 1885 there were 128 people in Miami; in 1890, there were but about 861 people in the whole of Dade County, and then Dade County extended from about where the north line of Palm Beach County is today, to nearly the end of the peninsula, nearly half way across the state. We might go back to 1770, when it is said that there were but 85 people in the whole of Dade County, and in 1775, when Dade County was ruled by the Duke of Dade. But what have we here today? We find here a great city, of nearly 60,000 people, a city composed of the most magnificent hotels, probably, in the world; a city having some of the most substantial business places and business buildings that can be found anywhere; a city noted for its beauty and for the subtropical nature of its trees and its plants. I can only say that when the Executive Council of this State Bar Association decided to adopt the recommendation of the last State Bar Association meeting, to hold this convention in Miami, that we had no fear of the hospitality by which we should be received. We only feared that perhaps your gracious hospitality, and the spirit by which it might be made manifest, might somewhat detract from our ability to perform the duties of this convention. I can only thank you, gentlemen, for this most gracious welcome that you have given us.

THE PRESIDENT: The next three items on our program are of a business nature. The constitution of our Association requires the President to make an annual report, and I beg leave to file this report.

The President thereupon read his report. (See Appendix, page 145.)

THE PRESIDENT: We will now have the report of the Secretary for the past year.

The Secretary's report was thereupon read. (See Appendix, page 153.)

THE PRESIDENT: It goes without saying that an efficient Secretary is the balance wheel of an organization of this kind, and is really a large part of the motive power as well, and we are to be congratulated upon the work Mr. Ulmer has done during the past year, as well as previous years.

MR. ROBERT L. SHIP (of Miami): Mr. President, I move that the thanks of the Association be extended to the National Surety Company for having published at their own expense printed copies of our program.

The motion was seconded and duly carried.

THE PRESIDENT: We will now have the report of the Treasurer.

The Treasurer's report was thereupon read. (See Appendix, page 154.)

MR. PHIL MAY (Treasurer): Now, that seems to be a large amount due, but it is not as much of an asset as it seems. Considerable work has already been done on this delinquent list, and the members have responded in a measure. Lately, as the activities of the Association have increased, they are paying up better, but only a fair percentage can be realized for those years, particularly 1918 and 1919.

Your Treasurer has two recommendations to make: one is to supplement the recommendation made by the President in his report, that the action of the Orlando convention in increasing the annual dues to ten dollars be rescinded. I feel that as the Association is now composed, the dues should not be more than five dollars. I noted with some interest in the report of the meeting of the American Bar Association, whose dues are six dollars a year, that an attempt to increase the dues to nine dollars was voted down, and I do not think we would be warranted in charging more than they. I feel from the sentiment that I have come in touch with in collecting the dues that the increase in amount of the dues would not mean any increase in the revenue of the Association. I feel that the members who would drop out would about balance the extra amount paid by those remaining in.

To balance this theoretical increase, which the increase in dues might have made, I suggest that the Association discontinue the practice of paying for the annual banquet out of the funds of the Association. This is a tax on the men who are not able to attend the meeting. We who attend are the ones who enjoy the banquet, and it would

seem appropriate that we pay for it. That would relieve the Association of a substantial expense, and help out a great deal.

I further recommend that the expense be decreased by reducing the compensation of the Secretary and the Treasurer. I think that the compensation now allowed the Treasurer is really more than the amount of the work is required, and in explanation of having accepted it during the past year, would say that the previous year it was only fifty dollars, and the work was pretty heavy, so I think it has been balanced off in the two years.

The work of the Secretary's office is extremely heavy, and the compensation now paid him is no more than adequate, but it is somewhat beyond us to pay him fifty dollars a month for those services. I would suggest that it be reduced to some amount to be figured out, perhaps by reference to a committee, with authority to the Executive Council to increase it should the receipts from the dues warrant it. That would be advisable, because if this bar integration bill goes into effect, the Secretary will be called upon to do a very enormous amount of work, and it will be appropriate that he be paid in keeping with that work.

I further recommend that the Association take some action with reference to delinquent members. We have quite a number who have been owing dues for a great many years. This is, I believe, according to the constitution, the business of the Executive Council, but it is a delicate situation, and one that they would not, I believe, desire to act upon without some expression from this convention. I think it would be well for this convention to adopt a resolution to the effect that these delinquent members be given one more notice and opportunity to pay up, and that after that they be dropped for the nonpayment of dues.

MR. W. W. HAMPTON (of Gainesville): Mr. President, I move that the reports of the President, the Secretary and the Treasurer be referred to a committee, to report back to this Association during this convention. Seconded.

MR. L. R. RAILY (of Miami): I would like to offer an amendment to that motion, that the three reports be referred to two separate committees, consisting of three members each. I think there are matters proposed in the President's report that should be considered by a separate committee, and by dividing the reports we could get a report quicker, and probably get a better report.

MR. W. W. HAMPTON: I accept the amendment.

The motion as amended was seconded and duly carried.

MR. HERMAN ULMER (Secretary): The only recommendation in the Secretary's report requiring action has already been acted upon. It is, therefore, unnecessary to appoint a committee to consider this report.

Whereupon the President appointed upon the committee to consider the President's report Judge C. O. Andrews, Mr. L. R. Raley and Judge O. K. Reaves; and upon the committee to consider the Treasurer's recommendations and report, Mr. R. A. Henderson, Jr., of Fort Myers, Judge Henry Taylor, of Key West, and Mr. George P. Garrett, of Kissimmee.

THE PRESIDENT: We will now take up the next address on the program. It is just a little bit late for this address, but I feel sure that you will all be amply repaid by remaining somewhat beyond the usual time of adjourning at the noon session, by the address which is to follow. I will ask the Honorable Ray Rushton, of Montgomery, Alabama, to come to the stand. It is a great pleasure, as well as a great honor to me to introduce to this body one of the men who was the inspiration of my early years as a young lawyer, and who has really been a model that I have tried to follow as best I could in my humble way in the practice of my profession. Mr. Rushton has not only been a prominent figure in the civic and political life of his native state of Alabama, but he is also well recognized in that state as the peer, if not the leader of the bar of the state of Alabama, and I have great pleasure in introducing to you Honorable Ray Rushton, of Montgomery, Alabama, who will now address you.

Mr. Rushton then delivered his address. (See Appendix, page 48.)

HON. JEFFERSON B. BROWNE (Justice of the Supreme Court of Florida): Mr. President, as a slight and entirely inadequate expression of appreciation of this Bar Association for the magnificent address which we have just listened to, one that is so full of historical interest, philosophy, and the expression of Southern thought on this great subject, an address that I believe will do a great deal of good in the North as giving them a proper conception of our attitude towards the negro, I move you, sir, that the Honorable Ray Rushton be elected an honorary member of the Florida State Bar Association.

The motion was seconded and duly carried.

THE PRESIDENT: I coveted for Mr. Rushton the best hour of the convention, and I scheduled it so we would commence his address at eleven o'clock, but the necessity of registration for the banquet tonight delayed us for thirty or forty minutes, and therefore it was necessary for his address to commence at a later hour.

Permit me to say that in the county where Mr. Rushton lives, and where I formerly lived, Montgomery County, the negroes outnumber the whites three to one; in the adjoining county of Lowndes they outnumber the whites seven to one, and during the six years that I was on the bench in Montgomery there was not a single case of lynching in that county. One of the reasons is that they have in that county a number of the real Southerners, like Mr. Rushton, who stand for law, and freedom, and liberty, and fair play. I am glad that we have had an opportunity of hearing Mr. Rushton, former President of the Alabama Bar Association, on this subject of "The Legal Status of the Negro," and we hope to hear him again during his presence here at one of the other sessions of the convention, as you will see by the program.

Now, one announcement, and I am done. We want to meet tonight at 7:30, if possible, at the Halcyon. The banquet commences at eight o'clock sharp, but for a little bit before the banquet hour, a reception committee headed by Mr. Jones wants to put in the receiving line all of the speakers of our convention, giving all of our members and their wives, sweethearts, who come tonight, and their friends, an opportunity to meet the speakers of this evening.

I thank you very much for your attention during the morning, and I hope that now the midday trains have come in that we will have even a larger attendance this afternoon.

We have a number of names that have been put in this morning for membership, and I will ask that the committee on membership report on them this afternoon.

We will take an adjournment until two o'clock.

The meeting was thereupon adjourned until two o'clock P. M., of the same day.

Afternoon Session

MARCH 19TH

The Association was called to order, pursuant to adjournment, at 2:30 o'clock P. M., in the Federal Court room.

THE PRESIDENT: The next speaker on our program is one who hardly needs an introduction to the bar of Florida. He is one who always gives us something to think about, and one whom this Association always hears with the greatest pleasure and profit. I take great pleasure in introducing Colonel William E. Kay, of Jacksonville.

Mr. Kay then delivered his address. (See Appendix, page 65.)

THE PRESIDENT: I am sure that we have all enjoyed that very brave, fearless and eloquent address. One thing we have to hand to Colonel Kay is that he doesn't know what fear is, and he has got the ability to say what he wants to say with great force.

Permit me at this time to ask United States Senator Sterling, of South Dakota, who happens to be in the audience, to stand up and let use see him. If you have a word or two to say to us, Senator, we will be glad to hear from you.

SENATOR STERLING: Mr. President, and ladies and gentlemen of the Florida State Bar: Just a word in expression of my great pleasure in being here today in the city of Miami, to which beautiful city I have come for just a few days of rest and recuperation after a very strenuous session of Congress. Of course, being here, whether my purpose was having a rest or not, I should want to attend, if but for a few moments, a meeting of a State Bar Association, because, on account of my work in the Senate, I have been unable for some years last past to attend a meeting of our own South Dakota Bar Association, and have, therefore, been deprived of the great benefit I always receive from attendance upon such meetings.

I want to congratulate all of you who are here on the interest you manifest by your presence here in the work of this Bar Association. It is a great profession you follow and have adopted for yours, your life profession; I think it is the greatest, perhaps, in the world. I remember in one of Mr. William Guthrie's lectures is this statement concerning the law: He says, "You must remember that it is neither the pulpit nor the press, but it is the law which reaches and touches every fibre of the whole fabric of life, which surrounds and guards every right of the individual, which keeps society in place, as it were, and holds the moral world together, which protects the greatest and the

least of human affairs alike." I think those are eloquent words on the part of Mr. Guthrie, and I, having had the honor of being dean of a law school out in the good state of South Dakota, used to quote those lines as something of an inspiration to the members of that school. I cannot help but think of the great mission and end of the law. Strange as it may seem, sometimes a paradox as it may seem to be, in fact, that the end of the law is *peace*. It is in part exemplified and practiced by the attitude of lawyers on opposing sides of a case. They fight each other like demons in the progress of the case, but they eat and dine as friends. But more than that, the end of the law is to bring about an end of controversy, of trouble, and of expense to litigants, and to that end, if I may say so in passing, the lawyer who advises a settlement without the compromise of dignity and the compromise of self-respect, often serves his client and the country better than he does by advising the starting of a law suit, and the lawyers serve, I think, in that respect, a great purpose, the true lawyer does.

Of course, we have been brought into close contact recently in the Senate of the United States with a situation which makes us, from the lawyer's standpoint, take a broader view of the law than merely of a state law or a federal law. We are interested in a proposition submitted to the Senate of the United States just a few days before we adjourned—too bad, I think, that it could not have been submitted earlier—and that was the desirability of the participation of the United States in a permanent court of international justice. We cannot be in that without important reservations; we want to avoid any danger of entangling alliances; and do not understand me, my friends, to say for a moment that I do not believe we might safely enter a league of nations with the fourteen reservations that had been adopted in the Senate of the United States by a decisive majority; but if we cannot belong to a league of nations, if we are not ready for that now, and whether we shall ever be ready or not, we at least as lawyers, I think, are ready for participation in a permanent court of international justice. The end of the law then will be peace, not alone as between individuals, but as between nations, because there, unto that great court, they will submit those controversies which heretofore have been *casus belli*, have been deemed to be such from time immemorial, and, without the shedding of blood, without the expenditure of vast treasures of money, without the impoverishment of peoples, these controversies that have stirred the world and caused so much loss in money and in life and in treasure, will be settled peaceably and amicably, with a continued growing friendship and brotherhood between the various peoples of all the world.

THE PRESIDENT: We had invited the first President of the Florida Bar Association to be present this afternoon and speak to us on a subject to be selected by himself. Unfortunately, he is not able to be here, but he has sent as his representative, Colonel R. A. Burford,

of Ocala, who will now read the paper prepared by Colonel R. L. Anderson, of Ocala. I have the pleasure of introducing Colonel Burford.

Mr. Anderson's address was then read by Mr. Burford. (See Appendix, page 71.)

THE PRESIDENT: The next number on the program will be a paper prepared by Mr. Justice Whitfield of the Supreme Court of Florida, which will be read by our friend and former President, Judge O. K. Reaves, of Tampa. We are always glad to hear from Judge Reaves, and are glad that he is in position to read this paper for us.

Mr. Justice Whitfield's address was then read by Judge Reaves. (See Appendix, page 78.)

THE PRESIDENT: I am sure we are all very much obliged to Justice Whitfield for that paper.

The Secretary has a couple of statements to make to us.

The Secretary then read an announcement of the American Institute of Accountants' Foundation prize competition. (See Appendix, page 81.)

MR. W. E. KAY: Mr. President, if there is any lawyer present who thinks he can handle that subject, I would like to know who he is.

MR. W. H. PRICE: I would like to retain him in my office a while, after we find him out.

MR. HERMAN ULMER (Secretary): I have also been requested by a committee working on a proposed bill in Jacksonville, and by the League of Municipalities in the State, to present to the Association a draft of a proposed bill to establish, regulate and provide for a mounted rural state constabulary. It is desired that this organization either endorse or disapprove of the proposed law. I will not read the bill in full. It is rather lengthy.

JUDGE O. K. REAVES: Mr. President, it is my thought that it would not be wise to consider a matter of endorsing or disapproving any bill except the one bill that this bar will take definite action on as it took last year. I, therefore, move you, that it is the sense of this Association that no bill except the one Bar Association bill, which will later come up for consideration, be considered either for endorsement or disapproval.

Seconded.

MR. L. R. RAILLEY: Mr. President, I want to raise an objection to any procedure of that kind. Now, my idea of a lawyer is that he should consider, and I think the Association should consider, bills that are to be presented to the Legislature, and I think the lawyer is in a position to recommend bills to the Legislature that he thinks should be acted upon and should be passed. It has been the policy of the Association to do that. While it is true that we have endorsed one bill which vitally affects this Association, I do not think that any resolution should be adopted that would prevent this Association from considering any bill that it is proposed to present to the Legislature, because that is one of the duties, as I see it, of the lawyer, to investigate and discuss, and in that way assist the public as to the merits or demerits of any bill that goes before the Legislature. I think the lawyer is in a better position to do that than the layman, and the layman looks to the lawyer to do that very thing. I think it would be a mistake, while I do not know anything about the merits of this bill, and am not speaking as to the merits or demerits of this bill, for I do not know anything about it, I do think it would be a mistake for this Association to pass a blanket resolution that we would not endorse or disapprove any proposed bill to be presented at the next session of the Legislature, or any other Legislature.

There are several matters in the report of the President which this Association will be called upon to consider that bear, not only on the law which this Association is endeavoring to have passed, but other legislation. There are recommendations of the circuit judges; there are recommendations of the county judges, through their association which met in Jacksonville about a week ago, that I think should be considered by this Association, and their merits and demerits discussed. If we can point out where they can be bettered, why, I think it is our duty to do it. For that reason I object to the motion.

MR. WM. E. KAY: When I differ with Judge Reaves, I always assume that I am wrong, but if there is anything that in my opinion is needed by this Bar Association, it is to get away from the pure reading of papers, the making of speeches, and adjourning, after social arrangements delightfully prepared. If this Bar Association is ever going to amount to anything, it is going to do so because it is organized, has fixed views, and impresses them on the Legislature and the people. If it is to be a mere social aggregation, all right, but if it is to exercise

the power that the lawyers have, all that is needed is to put them into action, and then it will be a real bar, and a real blessing.

Who knows better than the lawyers of Florida what remedial legislation should go upon the statute books, and who are in better position to condemn legislation that ought not to be enacted? I want to see the day when every session of this body will give the stamp of approval to well-considered matters of legislative enactment, just as I want to see them study evils in existing legislation and have those remedied by the Legislature. If I had my way, Mr. President, I would have deputations from this Bar Association to be at Tallahassee, relieving each other, being there aiding and advising on behalf of the lawyers of Florida on the measures there introduced and pending. It would be asking a good deal of lawyers to make the sacrifice, but look how our supreme courts are burdened constantly with half-baked legislation; look at the mass of error that creeps in under the head of courtesy to local members and senators; look at the erroneously worded bills that are brought, some of them not even referring to the constitutional requisition as to how a bill shall be framed; and these go upon the statute books—they are questioned in the courts, they are appealed before the Supreme Court, and that body is constantly being unduly harassed and burdened with that sort of half-baked legislation. When the lawyers of this state will realize that they have the greatest interest of any set of men in what goes on in the Legislature at Tallahassee, and that their voice as to what should pass should carry extreme weight, and their condemnation should be sufficient to deny any effect to proposed legislation, then, and not until then, will this Association have reached the point for which it was really organized, and ought to exist.

MR. FRED FEE (of Fort Pierce): Mr. President, I do not think there is anybody who has spoken that has any different object than I have, but before beginning to do the things that Colonel Kay says we ought to do, it seems to me that the lawyers should first put their own house in order. In accordance with the measure that has been adopted by this Bar Association on two different occasions, this Bar Association has not yet put its house in order. It has not yet been able to achieve the one piece of legislation that the Colonel says is the first step along that line, and I think the majority of the Bar Association here present agree with him in that respect. Now, shall we scatter our thunder? Shall we proceed to go into all the realms of legisla-

tion? Shall we not only try to say to the Legislature, "Give us a bill letting us regulate ourselves," but "Endorse this, and that," and the other legislative bills? As private citizens we have rights, and we have a certain amount of influence, but as a Bar Association I don't know whether we have the influence or not. In order to get that influence, we must first have the proper kind of a bar. The step that Colonel Kay recommended for two years has not yet been taken; it has not been secured. Then, why waste effort in going into a lot of legislation, which the Secretary intimated was too long to read? I don't know how long it is, but I certainly wouldn't endorse a bill that I hadn't heard read, and I do not believe that any majority of this bar would do it either. Have we time to discuss the various things that may come up before the ensuing Legislature? I have been in the Legislature; I have been on the judicial committee which handles about two-thirds of the legislation of the House and Senate, respectively; prepares it, and then has it murdered after it gets it on the floor, lots of times, as the other lawyers will bear me witness. It seems to me that it will, appeal to the Colonel that we better confine our energies, as far as our legislative needs as a body are concerned, to passing this one bill. I think I have only to recall an instance in this circuit. I understand in this circuit the Bar Association endorsed one man for Judge and another man who did not have the Bar Association endorsement came pretty near beating him. I don't know, but I heard it was a close contest, and I think we had some experience of that kind elsewhere in the state. Just because we ought to have the influence, let us not presume we have it, and then proceed to scatter what little we have.

JUDGE REAVES: Mr. President, just a word. My idea was purely practical, and intended for a practical purpose. I raised no issue with the gentlemen who have spoken on the other side, and the same aspiration that they have expressed I share abundantly, but my thought is this: we are here for a two days' session. If we reserve this bill to the time it comes back with the report, the body will want to hear the bill read, and then discuss it. We haven't had time to do it. Other bills might come in and every organization in the country and everybody that wants a measure, if we set this precedent, will be coming to this Association at future meetings to try to get their measures endorsed. Mr. President, I do not think we can do it. I think probably my motion was too restricted, and with the consent of my second, I would

like to change it to read this way: That we do not consider for endorsement or otherwise, as the case may be, any bill except the Bar Integration Bill, and such other bills, if any, as may be reported as a result of recommendations made by officers of this Association.

MR. WM. E. KAY: Will you change it this way, Judge Reaves? Can't we work out a constructive program that will be giving us progress, agreeing that the difficulty you mention exists as to this particular bill? Can we not so shape the order that hereafter anybody desiring a bill to receive the approval of this Association must submit the bill at least three months before the convening of the session for consideration by the Executive Committee before the matter is brought up at the next regular session of the entire Association, so that your Executive Committee will be doing the work, considering the matter, and when the bill comes it will come with some intelligent discussion of its merits, and a recommendation will follow?

JUDGE REAVES: Colonel Kay, my motion was only intended to express the policy of the convention at this time, and your motion, I think, will be proper for future government.

MR. J. R. WELLS (of Panama City) : There is only one additional thought I wish to express. The prominent thing to be accomplished by this Association is legislation affecting ourselves, organizing our own bodies. Those who have had an opportunity to be about the halls of legislation must remember that they know, and others perhaps do know and will remember when the matter is suggested to them, that lawyers do not have too much influence over the members of the Legislature. Even those lawyers who have been elected as members of the body, do not have so much influence there, as a rule. They undertake to overrule the suggestions of lawyers, and if we as a body of lawyers undertake to shape and regulate the legislation that is to be put through the Florida Legislature, we will entirely lose our prestige. I think it entirely a bad policy for us to adopt.

MR. W. H. PRICE: As I understand, Mr. President, the motion made by Judge Reaves goes solely to the action of this Association at this time, and as we only have a two days' meeting, and the program is so extensive, I am afraid that a great many matters that ought to come before the Association may be eliminated, if we consider this proposed legislation. I do not think it good policy to lose time by going into the consideration of bills, other than this bill which we every

one are in favor of, and for which this Association is pledged. I do not think it will be a good idea to go before the Legislature at this time with numerous bills to be presented. I think by concentrating our efforts and pushing this one bill which Colonel Kay has been urging here for two years—and which some of us were against when he first started—then I think if we carry that into effect that this Association will have accomplished a world of good; but to attempt to scatter our fire, and take up and consider bills here or recommend bills which we have not had any chance to investigate, or reach any opinion upon at all, will be bad policy. I think the suggestion made by Colonel Kay as to future action is entirely a wise one, and should be engrafted into the minutes of the meeting. I am in favor of the resolution now, as made by Judge Reaves.

THE PRESIDENT: The motion is that the convention confine itself to the consideration and action upon only the bill which has been endorsed by this Association for the integration of the State Bar, and in addition, shall consider only the bills mentioned in the reports of the officers, provided they are reported by a committee as being worthy of action by this Association.

Permit me to make this observation before the vote is taken. We are all committed to take some action upon the subject of the bill drawn by Judge Massey, which I described in my talk this morning. The Orlando Convention instructed Judge Massey, Judge Cockrell and myself to report a bill to carry out the purposes expressed in his paper at Orlando, and which received the almost unanimous approval of the convention at that time, in the matter of pleading; so we are practically committed to that, if the bill drawn by Judge Massey meets the approval of this convention.

There was one other bill which I mentioned in my report this morning which might meet the favorable action of the committee to which it was referred, regarding the matter of American citizenship. However, as I understand it, that also could be considered at this session under the resolution as offered by Judge Reaves, provided it was favorably reported by the committee to which it is referred.

You have heard the question. It has been pretty thoroughly discussed. Does any one else wish to be heard on the subject?

There being no further discussion, the motion was thereupon duly carried, and the resolution accordingly adopted.

THE PRESIDENT: Before we adjourn, I want to explain the absence of Mr. Samuel Untermeyer. He had promised to be with us on this occasion to deliver an address. He greatly desired to do so, but he notified me a few days ago that a case in which he was vitally interested was set down for argument in the Circuit Court of Appeals on this date, and that there was no way for him to get out of being there. He had to leave Palm Beach on that account, and asked me to please present his greetings to this convention, and to express his great appreciation at having been invited to address it. I am sorry we cannot have Mr. Untermeyer with us, but that is the situation. However, we have had the pleasure this afternoon of hearing from Senator Sterling, who was not on the program, and partially have been repaid for the time that was set apart for Mr. Untermeyer. Furthermore, the time is rapidly drawing nigh when we are to take the motor ride that has been tendered to us by the Miami Bar Association, and between now and four-thirty Mr. Dean would be glad to interview any of you who want to secure your tickets for the banquet tonight, or for the tea dansant at the Flamingo Hotel tomorrow afternoon at five o'clock.

If there is no further business to be brought before the meeting, we will now take an adjournment until tomorrow at ten.

Whereupon the convention adjourned until ten o'clock A. M., the next day.

Morning Session

MARCH 20TH.

Pursuant to the adjournment, the convention met at ten o'clock A. M., in the Federal Court room.

MR. H. H. TAYLOR: Mr. President, the committee appointed to consider the Treasurer's report, have considered this matter very carefully, and have for presentment the following resolutions, in accordance therewith:

RESOLVED, That the practice of payment of banquet fee by the Association for members be discontinued.

RESOLVED, That the Executive Council adjust the compensation of the Secretary and Treasurer from time to time as conditions may warrant.

RESOLVED, That Article XVII of the Constitution be amended to read as follows:

"Article XVII: The annual dues of members shall be five dollars (\$5.00), to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default."

RESOLVED, That the Treasurer be and he hereby is authorized and directed to adjust, by extension of time or otherwise, payment of dues owing by delinquent members, and that he enlist the assistance of one member in each county and that the Treasurer report his results to the next annual meeting.

MR. W. W. HAMPTON: Mr. President, with reference to delinquent dues I confess I have very positive views on that subject. I can not believe that a man who will take so little interest in the organization as to neglect to pay his dues for one or two, or four years, as the case may be, is worthy of being a member of the Association. I can see no valid reason for temporizing with men like that. It seems to me that the Association will be stronger in power and influence, and the standard of the Association elevated if we simply say to these men, "You must pay your dues, or be dropped as a member of the Association." I think it lowers the esteem that we have of the members of the profession to say that we should beg a man to pay his dues in the Bar Association. I move as a substitute for that resolution that the Secretary, or Treasurer, as the case may be, be instructed to notify

these delinquents that if their dues are not paid within sixty days that they will be dropped from, and cease to be members of, this Association.

THE PRESIDENT: You move that as an amendment of that particular section of the report?

MR. HAMPTON: Yes. I have no objection to the balance of the report.

MR. AUSTIN MILLER (of Jacksonville): I wish to second that amendment. I have had some little experience in matters of that kind in the Jacksonville Bar Association, and we proceeded on a policy very similar to that as stated in the resolution as submitted by the committee, with absolutely no effect whatsoever, and we had to take such steps as suggested by Mr. Hampton before we were able to make any collections whatever. After taking that stand we collected practically sixty per cent of what was owing, and those who had to be wiped out were only those who had really dropped themselves some years before, and we really did not miss them. I think the substitute motion of Mr. Hampton should carry, as the only practical one before the house.

THE PRESIDENT: Mr. Austin Miller has acted during the past year as President of the Jacksonville Bar Association, and his views carry a great deal of weight. I personally want to say that I agree fully with the policy outlined by Mr. Miller and Mr. Hampton, but this is a matter for the convention to decide. I think that it is a matter we should decide here and now. I will be glad to hear from any other members who wish to express themselves on the subject.

MR. W. H. PRICE: Mr. President, I think the policy suggested by my friend, Colonel Hampton, of Gainesville, is certainly wiser. If the members of this Association do not seem to take interest enough in it to meet the small liability for dues to defray its expenses, they certainly are not of very much assistance to the Bar Association. In other words, this Association wants live members, not corpses—and if there are members who have their names upon the list as belonging to this Association who neglect their duties, or refuse to comply with the by-laws and constitution of the Association, it does seem to me that they are worthless material, and the quicker we get rid of such members, and get in the live and new blood, and members who will give their time to it, the better it is going to be. I heartily favor the substitute motion made by Colonel Hampton.

MR. GEORGE P. GARRETT (of Kissimmee): Mr. President, as a member of the committee, I got up to speak in favor of the resolution that was adopted partly through my cooperation, and yet I feel that it is a matter where it is only the sense of the organization we desire. That is, we have no intention or wish to fight on behalf of the resolution we have made, but I want to suggest this, that your substitute is not yet broad enough. Unless your substitute carries with it a proviso as to how those men can later be reinstated, it is not complete. If you are going to take the position that because they are in bad standing they should be dropped, that is one thing, and it is perfectly proper; but then, the question comes up how will they again be admitted to membership, and the resolution should be large enough, or comprehensive enough to provide, in pursuance of that attitude, that they cannot be readmitted to membership until they have paid their delinquent dues. That is a part of the problem that is before you. I say, it is perfectly satisfactory to us, whichever attitude is taken, and whichever resolution is adopted, but the substitute should provide in some way for reinstatement; otherwise, it will still remain a problem, and when a man applies for reinstatement we will be without guidance as to what is the action of the bar on that matter.

MR. ROBERT L. SHIPP: Mr. President, I would like to say this on that matter. There is no mode that you can pursue that will cause all the members to pay their dues. Now, in the state from which I came, we found a condition very similar to this; that is, that the dues were not being paid, to some extent due to the carelessness of the lawyers, rather than to a desire not to pay. Our Association adopted a resolution stating that as dues became due that the Treasurer would draw drafts on the various members for those dues, and he does that every year. We found, not that it made all the members pay, but we found that it made a very large percentage of them pay, and we found it was the most satisfactory way that we could use to collect the dues. As you know, we are prone to carelessness, and I think it is generally accepted that the lawyer is about as careless about financial matters as, perhaps, a banker. I think, Mr. Chairman, without drawing a resolution to that effect, that if the proper committee would offer the resolution that the Treasurer would draw on each member of the Association each year for the dues, that he would find it would be a cheaper and more efficacious way of collecting the dues than any other mode. I make that simply as a suggestion. I presume the proper committee

has charge of that. We found that very successful in Georgia; we found that the dues were collected very much easier, and very much more promptly. When the draft comes, the member will pay.

MR. E. P. AXTELL: Mr. President, personally, I have very little sympathy for the man who fails to pay his dues to the Association, but we have been rather negligent about this matter for years. Some of the members of the Association, I understand from the Treasurer's report, are behind as much as five years, some as much as four years, many three years, and still more two years. I think it would be somewhat of a hardship for the Association to now declare that all members who are delinquent must either pay or be dropped from the rolls. It seems to me we might go at this thing gradually, and give the members to understand that the dues must be paid ultimately. I desire to offer as a substitute for Mr. Hampton's motion that the Treasurer be directed to notify all members who have not paid their 1918 dues that if that year's dues are not paid within, say, thirty days, they will be dropped from the roll. I apprehend that a man who owes \$25.00 is not very likely to pay it all at one time, and it seems to me, from the fact that the Association has permitted this thing to go on so long, that it would be better to go about it gradually, and give the members an opportunity to pay up, if they will do so.

MR. J. R. WELLS (of Panama City): Mr. President, I agree with the views expressed by Colonel Hampton as to the justice of the question, but I seriously doubt the wisdom of taking the course suggested. The leading thought expressed here is to expand this Association so that it may, if possible, include every worthy lawyer in the state, and if we were to take the drastic step suggested here to eliminate from this Association members by expulsion, as it would amount to, for the nonpayment of dues, which have been almost universally not paid, I believe it would be a mistake. Instead of supporting his resolution, as I believe it has merit in it from the standpoint of business, I am going to offer an amendment or substitute, whichever it should be, to remit all dues prior to 1920, and let the rule operative prospectively instead of retrospectively, to the end that we may expand, and may include every member of the bar of the state who is a worthy lawyer. I think it would be a mistake for us to take steps, under the conditions that would prevail, at this time to exclude from this Association members for no other reason than the fact that they are in default in payment of dues.

MR. PHIL MAY (Treasurer): Mr. President, I would like to say a few words in reply to Mr. Wells's sentiments, which are very commendable, but with which I cannot agree.

During the past two years quite a number—I should say, roughly, forty or fifty men—who owed four or five years' dues, have paid up those dues. There are particular cases where members wrote in suggesting that those charges for those back years had run so long that they ought to be remitted, and when there was no action taken with reference to that, those members paid up their dues. I think it would be a gross injustice to those men who have come up to the scratch and taken care of their delinquent dues, to waive dues for the others. I do not think that any large percentage of these delinquent members would appreciate an action of that character on the part of this convention. I do not believe, were I one of the delinquents, I would appreciate any such action in the nature of charitable action by the convention; so I am opposed to it, even though I commend the spirit of it.

THE PRESIDENT: Mr. May, what are your views as to the amendment as proposed by Mr. Hampton and the committee's report?

MR. PHIL MAY: I think that that is, perhaps, a little too drastic, in view of the fact that no action has been taken with reference to this matter for so many years. My personal views are that the views expressed by Mr. Axtell are the best under the circumstances, and I think that some instalment plan to take care of delinquent dues should be worked out—a notice to pay the 1918 dues by a certain time, and the 1919 dues by a certain other longer period, and so on.

THE PRESIDENT: Gentlemen, the committee's report seems to be entirely satisfactory except on that point. How would it do to recommit that point for the committee to amend its report and submit this afternoon? Of course, the question as made by Mr. Hampton is before us, if we want to vote on that. Personally, I am inclined to favor the adoption of the amendment suggested by Mr. Hampton with this proviso, that all parties be notified that they can pay their dues within sixty days, and save being dropped from the rolls, but if they do not pay within sixty days, they can be dropped, and can only be reinstated upon payment of the delinquent dues, and they should be given the balance of this year to take advantage of it; but it is only a question of varying views, and possibly, as the time has now come for us to enter upon our regular program for the morning, the quickest way out

of this would be to resubmit that point to the committee, and ask them to render us a further report on that point this afternoon. Would you take that as a substitute for your motion, Mr. Hampton?

MR. W. W. HAMPTON: Yes, sir, I make that motion.

MR. J. H. CARPENTER (of Fort Pierce): Mr. President, I offer this motion, instead of recommitting it with respect to that one point, which seems to be objectionable, let them work the whole thing over and make it harmonious; so I make the motion that we recommit the report to the committee and ask them to render a new report.

Seconded.

THE PRESIDENT: They realize that this is the only point in dispute, and they can revise their report on that point, but I want to make this suggestion, that if the committee will get a copy of the constitution, they may be able to suggest an amendment to some section of the constitution or by-laws that will control that matter, and we can end the whole matter at one time by an amendment to the by-laws, and if the report is adopted the by-laws or constitution will be automatically amended.

Now you have heard the motion by Mr. Hampton, and duly seconded, to recommit this to the committee.

The motion was duly carried.

THE PRESIDENT: Mr. Secretary, any announcements?

MR. HERMAN ULMER: The Committee on Admission reports favorably on the following applications for membership:

M. Lewis Hall, G. A. Worley, Jr., John L. Neely, R. R. Taylor, Jr., and Thos. B. Warfleet, of Miami; Fred H. Mellon, of Fort Myers; J. Howard Carpenter, of Fort Pierce; C. L. McCoy, L. R. Baker, John Ziegler, R. S. Yoemans, Bert Winters, D. F. Dunkel, Wesley Houser, Paschal C. Reese, T. Paine Kelly and Geo. W. Coleman, of West Palm Beach.

The above-named were duly elected to membership in the Association.

THE PRESIDENT: Gentlemen, I want to remind you that tonight we are going to have a smoker at the Elks' Club at eight o'clock. It is going to be, as I understand it, entirely without charge. A luncheon will be furnished, and it is going to be a kind of free and easy meeting, with no set program. No topics have been assigned to anybody, but we have a number of speakers who will be allowed to select their own subjects for brief talks.

MR. HAMPTON: Mr. President, may I inquire, are you going to follow this program, and have the election after the speeches tonight?

THE PRESIDENT: Tonight we will have the election after the speeches.

MR. HAMPTON: Wouldn't it be better to have the election before that? Some of us old fellows do not like to sit up so late. I think it would be best to have the election, and then the speeches afterwards; business first, and then pleasure afterwards, and let us stay as long as we wish, because I am frank to say that, while I enjoyed every word that was uttered at our banquet last night, two nights might be too much for an old gentleman, a man of my age, and I hope that you will have the election first, and then we can stay as long as we want to.

MR. W. H. PRICE: I move, Mr. President, that such items of business that are unfinished, and the election of officers, be taken up the first thing at the meeting tonight, and then after the election that you let the members have a good time.

THE PRESIDENT: Then the responsibility will be over, I suppose, and they can enjoy themselves more. In order to facilitate such a result, I think I better appoint the committee on nominations right now, and let them be ready when they meet tonight. I will appoint on that committee Judge Robt. L. Shipp, of Miami; Mr. W. W. Hampton, of Gainesville; Mr. C. B. Peeler, of Jacksonville, and Mr. George P. Raney, of Tampa. Those gentlemen will kindly report on the nominations tonight, and if their nominations suit us, we will elect them, and if the convention doesn't like them, it will elect some one else.

Gentlemen, there are three letters here which I think ought to go into the minutes of this Association. I will not read all of them. One of them was read last night. As the proceedings of the banquet are not ordinarily reported in the proceedings of the Association, being largely of a social nature, I do not think this would get in there otherwise, but if it meets with the approval of the convention I will be glad to have the letter of H. M. Daugherty, the Attorney General of the United States, which was read last night, and which was addressed to the Association, incorporated into the minutes of the Association.

MR. ROBERT L. SHIPP: I move it be given that direction, Mr. President.

The motion was seconded and duly carried. (The letter referred to appears in the Appendix, page 82.)

MR. HERMAN ULMER (Secretary): Mr. President, I would like to suggest to the Association that we print in the minutes of this meeting the speeches which were made at the banquet last night. Our official reporter was in attendance, and I think it would be of inestimable value in future years to turn to the minutes of the meeting of 1923, under a separate section of the book, entitled "Proceedings at the Banquet," and read again those wonderful addresses that were made last night. I have quite a number of reports of the meetings of other state bar associations in which the proceedings at the banquet were reported. I think it would greatly increase the value of our annual report to have those speeches in it.

MR. W. H. PRICE: Mr. President, I move that the Secretary be requested by this body in preparing the proceedings to incorporate therein the addresses delivered at our banquet last evening, provided that the condition of the treasury will warrant the additional expenditure.

The motion was seconded and duly carried.

MR. ROBERT L. SHIPP: Now, Mr. President, the time is short for the nominating committee to do its work, and I am going to ask them to join me at luncheon today at Lubin's restaurant.

MR. AUSTIN MILLER: Is the Nominating Committee to nominate all officers, or all but the President? It has been customary to nominate the President from the floor.

THE PRESIDENT: No, all officers.

Gentlemen, there are two other communications that I wish to submit, that I think are worthy of being printed in the proceedings of this convention. The first thing I did when I was elected President of this Association was to invite Honorable Ray Rushton, of Montgomery, to deliver the annual Bar Association address. I think the convention will say that in one instance, at least, in my work as President, I exercised good judgment. However, I did not stop with that. Realizing that this Association was entitled to the very best that could be had from every quarter at its convention, I had the nerve and effrontery to invite the Chief Justice of the United States, the Honorable William Howard Taft, who, I think you will agree with me, is proving one of the most industrious, able and great chief justices that

this country has ever had. I did not much think he could come, but I thought possibly if he felt fagged out and tired along about the latter part of March, he might come down to Miami; so I issued the invitation. Judge Taft is a very busy man. One who knows him well, and has worked with him, says that he frequently rises at five o'clock in the morning, and puts in two or three hours of good, hard work before breakfast. We all know that he is turning out a tremendous amount of high-class work. I received a letter from the Chief Justice a few days ago which conveys a short message to this Association, and being a message to this Association from the head of our judicial system in this country, I think it should be published in our proceedings. It reads as follows:

SUPREME COURT OF THE UNITED STATES.
WASHINGTON, D. C.

February 8, 1923.

My dear Mr. Brown:

I have your kind letter of February 5th. I would like much to come down to you on March 19th and address your Bar Association, but my work on the Court excludes the possibility of any such trip.

Sincerely yours,

WM. H. TAFT.

Present my compliments to the Bar of Florida and my high appreciation of the honor they do me by this invitation.

Mr. Armistead Brown,
President, The Florida State Bar Association,
Miami, Fla.

MR. W. H. PRICE: I move this letter be published in the minutes of the Association.

The motion was seconded and duly carried.

MR. W. H. PRICE: I would like to make an inquiry. I was just wondering if Judge Brown learned how to work under Judge Taft.

THE PRESIDENT: I am not so industrious, but I appreciate the compliment implied.

There is one other letter I want to present to this Association, and before doing so, permit me to say that I have had some hard luck. I invited Honorable Harcourt Malcolm, of Nassau, the President of the Colonial Assembly of Nassau, and the leading attorney of Nassau

in the Bahama Islands, a graduate of Oxford, educated in the Inns of Court and King's Council, and a member of the Order of the British Empire, with all one of the most representative and charming British gentlemen that it has ever been my pleasure to meet. He was delighted to accept the invitation, and he fully intended to be here. I was over in Nassau a few days ago, and he expressed it in his British way. I said, "Are you really coming over to make that speech?" He says, "Why, sure, I am full of it, just full of it." He wanted to come, but the main steamer that plys between here and Nassau, a P. & O. steamer, broke its propeller on some rock as it went out the other day, and hasn't been able to make a trip until today. They will leave again today as I understand it. So there has been very small chance for Mr. Malcolm to get here, unless he rode on a fishing smack or came on an airplane. However, I still have hopes that he will be here by this afternoon, as I have not received any wireless from him to the contrary, and I know that he desired very much to accept the invitation and be here.

One other explanation of hard luck. I invited Justice William Renwick Riddell, of the Supreme Court of Ontario, and he accepted. About six weeks ago Justice Riddell was here on the yacht *Lyndonia*, Mr. Cyrus H. K. Curtis's wonderful yacht, as a guest of Mr. Curtis on a cruise in these southern waters. Having heard him deliver two wonderful addresses before the American Bar Association in Boston three years ago, I called on Justice Riddell, and invited him to address us at this convention. He said that the itinerary of the trip called for a return to Miami just at this time, and he would be delighted to accept the invitation, and he fully intended to be here. The *Lyndonia* did arrive in port two or three days before the convention met, but Mr. Curtis was called by imperative business to Philadelphia, and left, taking his whole party, including Justice Riddell and his wife, the day before our convention met; so we suffered more hard luck.

Justice Riddell sent a note to me expressing his great regret that he could not be with us, and his great appreciation at the invitation. He is a most captivating spirit, as well as an able man, and I trust that we may yet have him on some future program of the Florida Bar Association. He wrote me a letter that I want to read to this convention about our Bar Integration Bill. When he was here in February I sent him a copy of our Bar Integration Bill, and asked him to let me have his opinion of it. He returned it to me in a few days with this note:

ON BOARD STEAM YACHT LYNDONIA

Feb. 11, 1923.

MY DEAR MR. BROWN.

Many thanks for your very kind letter.

The proposed bill is admirable. In our system, the Bar itself elects the Benchers (Governors) of the Law Society, but we are very democratic and do not allow the "Head of the State" any power at all but to sign on the dotted line. Our Law Society also does all the reporting of decisions, furnishing every lawyer Weekly Notes of all decisions and monthly "Regular Reports" and all of permanent value. Our Law Society is autonomous in all respects—frames curriculum, educates, examines, admits, disciplines, etc.

With kind regards, I am

Yours very truly,

WILLIAM RENWICK RIDDELL.

MR. W. H. PRICE: I move that also be printed in the minutes of the Association.

The motion was seconded and duly carried.

THE PRESIDENT: Now, gentlemen, we have reached a point on the program where, if I were selfish, I would commence the President's annual address. I thought I would get into this address about nine-thirty or ten o'clock this morning. To show you how unselfish I am about that, I placed my address on the program the first thing on the morning after the annual banquet. I opined that we were going to have "some" banquet and that on the morning after, especially during the first few hours, the members of this convention would not be willing to listen to anybody until they had had time to recuperate somewhat from the wonderful repast, feast of reason and flow of soul which the program provided for them. So I thought I would catch you napping, speak to you when you couldn't listen, and get by with any sort of a speech, and I placed my speech for the first thing on the morning after the banquet. However, we have had so much incidental business this morning that I believe you have had time to regain your equilibrium, and, instead of taking my regular place on the program, or in the order in which it comes, having reached an hour when I believe you are in a good mental condition to receive and appreciate something worth while, I am going to ask that the next speaker on the program, Judge Jefferson B. Browne, of the Supreme Court, whom we all admire, respect and love so well, come forward and give us the address which he has prepared on "The American Law Institute, Its Organization and Purposes."

Mr. Justice Browne then presented his address (See Appendix, page 84.)

MR. ROBERT L. ANDERSON (of Jacksonville): Mr. President, I move that the recommendation of Judge Browne be adopted, and the Secretary be instructed to write and procure as many copies of the report of this committee as possible, for the use of the members of this Association.

The motion was seconded and duly carried.

THE PRESIDENT: I am sure that every one present has enjoyed the brilliant and able address of Judge Browne.

Now, gentlemen, before we proceed to the next item on the program, I wish to call your attention to the thé dansant which has been provided for us this afternoon at the Flamingo Hotel, and I would suggest that we leave not later than four-thirty. While this was provided on the program for the especial benefit of the ladies, it is expected that all of the gentlemen delegates will also attend, and I assure you that you will find it a most delightful and interesting occasion.

I am going now to ask the privilege of introducing to this Association, by way of recognition of his exceedingly competent and faithful services, both in the past and present, the gentleman who has reported the proceedings of our annual conventions for so many years that "the memory of man runneth not to the contrary"; he is also a lawyer of ability, at present residing in the village of Jacksonville.

MR. GOV. HUTCHINSON (of Jacksonville): Mr. President and members of the Florida State Bar Association, I am grateful to you for this recognition of my connection with this august body. I have long wanted it to go down in the annals of my history that I had "addressed" the Florida Bar Association, and the opportunity you have given me of fulfilling this ambition amply repays me for what little service I may have rendered it in the past. Thank you very much indeed for the opportunity.

MR. WM. E. KAY: Mr. President, I want to say this, that Mr. Hutchinson was for a number of years in my office, and as you have referred to him as hailing from "the village of Jacksonville," I wish to take exception with you as to that, and to say that although the Association has had to meet outside of Jacksonville but two times in a number of years, once when we went to Orlando, where we met with a wonderful welcome, and now when we have come down to Miami to enjoy the splendid entertainment that has been provided for us, we

have come to the conclusion that it is good for us of the *capital* to occasionally journey into the *provinces*, that we may encourage them in their efforts to be a part of a real Association.

THE PRESIDENT: Gentlemen, I want to say that it occurred to me yesterday morning, when calling the convention to order that, having met so many years in session at the village of Jacksonville, after wandering many years in the wilderness, at last the Florida Bar Association had entered the Promised Land.

I wish to introduce to this audience a gentleman to whom we are very much indebted. He has borne the burden of organizing and conducting all the details and arrangements outside of the list of speakers and subjects, the Honorable Walter D. Payne, of Miami.

MR. WALTER D. PAYNE (of Miami): Mr. President, I haven't much to say. I am too new at the law game to say much that would interest so many noted lawyers. I wish to say that I have managed to hold a few more tickets for the dansant, which may be obtained by application to me. I also want to call your attention to the smoker at the Elks' Club tonight at eight o'clock, and to urge you all to come. We want you all to be there, and we promise you a rousing good time. I want to thank you for your cooperation in helping me, and letting me entertain you here.

MR. W. H. PRICE: Mr. President, I regret very much that I am called away from the Association, and will not be able to be with you tonight, but, on behalf of the Miami bar, I want to extend to all of these gentlemen a most cordial welcome again to our city. I believe in rotation of meeting places, and we have enjoyed the hospitality of Jacksonville, Orlando, Pensacola, and many other places in the state, but I want to tell the Bar Association you have never been to any place yet where they were more delighted to receive you than Miami, or where they would do more to show you a good time. I regret to have to leave, but I must go. I hope you will have a great time.

THE PRESIDENT: Gentlemen, the next item upon the program that will be presented is the President's annual address, which will now be inflicted upon you.

The President then read the President's annual address. (See Appendix, page 103.)

Whereupon the convention adjourned until two o'clock P. M. of the same day.

Afternoon Session

MARCH 20TH

The Association was called to order, pursuant to adjournment, at 2:00 o'clock P. M., in the Federal Court room.

Mr. R. A. McGeachy, of Milton, Florida, was elected to membership in the Association.

THE PRESIDENT: The next address on our program for this afternoon is one of special interest for the Bar Association, one to which we have devoted much thought and discussion. I will now call our friend from Bradentown, Honorable W. B. Shelby Crichlow, to come up and discuss the subject of "The Public and Judicial Procedure."

Mr. Crichlow then read his address. (See Appendix, page 122.)

MR. RAYMER McGUIRE: Mr. President, before we proceed further, I have some resolutions I would like to offer. Orlando and Orange County, since last June, have suffered the loss of two able lawyers, Honorable John M. Cheney, ex-Judge of the Federal Court, and Mr. Carl B. Robinson, whose death occurred this morning. You people who were in Orlando last year remember Carl Robinson as the princely gentleman who was the head of the entertainment committee. I would like to offer two resolutions, as follows:

HON. CARL B. ROBINSON.

WHEREAS, it has pleased Almighty God in His infinite wisdom to remove from our midst CARL B. ROBINSON, a distinguished member of the Bar of the Seventeenth Judicial Circuit of the State of Florida and of the State Bar Association, and

WHEREAS, we realize that this immediate community, as well as the State at Large, has suffered a great loss,

THEREFORE, BE IT RESOLVED: That we extend to his family our condolence and sympathy, and

BE IT FURTHER RESOLVED: That copies of this resolution be spread upon the minutes of this Association and furnished the family of the deceased.

HON. JOHN M. CHENEY.

WHEREAS, Almighty God has seen fit to call to his final reward JUDGE JOHN M. CHENEY, of Orlando, Florida, an esteemed and brilliant member of the State Bar Association, and

WHEREAS, this Association greatly deplores its loss and that of the State;

THEREFORE, BE IT RESOLVED, by this Association: That we keenly feel the departure of our beloved member and extend to his immediate family our condolence and sympathy.

BE IT FURTHER RESOLVED: That copies of this resolution be spread upon the minutes of this meeting and furnished the family of the deceased.

I would also like to suggest, Mr. President, that the Secretary of the Association, Mr. Ulmer, be directed to send a telegram expressing the condolence and sympathy of this Association to Mrs. C. B. Robinson, Orlando. I would like to move the adoption of these resolutions.

The motion was seconded and duly carried, and the resolutions accordingly adopted.

MR. WILLIAM HUNTER: Mr. President, since the last meeting in Orlando, the Association has lost a very valuable member, who was present at the first meeting of the Association, Mr. W. A. Carter, of Tampa, and I think it would not be inappropriate for us to adopt a similar resolution in regard to Judge Carter.

The motion was seconded and duly carried.

THE PRESIDENT: The next number on our program is a talk by a man who always has something worth while, and worth hearing. I only wish we had more time. Senator Hudson is the man I refer to, and I wonder if it wouldn't be a good idea for us to put the Senator's speech off until tonight, so he can turn himself loose and say whatever he wants to. How is that, Senator? Would you rather speak tonight at the smoker, or would you prefer to speak now?

SENATOR F. M. HUDSON: Mr. President, I will have to let the truth out, now. When President Brown asked me to deliver an address, I told him if he got here and got in a hole that he could not fill up, I would try to fill it, or make a stagger at it, and it looks to me now as though no such hole exists. As a matter of fact, I cannot undertake to speak tonight, and I am here ready to respond now, if that is the desire of the President, but frankly, I think you have about used up your time.

THE PRESIDENT: Come around, Senator, and talk to us. We have got some little time yet.

SENATOR HUDSON: Haven't you other business to attend to?

THE PRESIDENT: Well, we can hear the report of the committee on the President's report tonight, and we would be glad to hear from you now, Senator. Some of the boys say they want to go out and get their hair combed and their faces washed, and so forth, some of the members who especially desire to make something of an impression on the ladies who will attend the thé dansant, but I think the balance of us rather hear that speech; so come around, Senator Hudson, and talk to us.

Senator Hudson then delivered his address. (See Appendix, page 132.)

Whereupon the convention adjourned to meet again at the Elks' Club at eight o'clock P. M. of the same day.

Night Session

MARCH 20TH.

The convention met pursuant to the adjournment, at the Elks' Club, at eight o'clock P. M.

THE PRESIDENT: I will ask you to be seated, and come to order. We will hear the report of the committee on the President's report. Is the chairman of that committee here?

(No response.)

Then, there was a committee on the Treasurer's report. Is the chairman of that committee here?

MR. GEO. P. GARRETT: Mr. President, I am not the chairman, but I was requested to read these as the recommendations of the committee, as Judge Taylor had to leave for a few minutes. These are pretty much in the order in which they were practically approved this morning. There was only one instance where there was any question.

We recommend that the following resolutions be adopted:

RESOLVED: That the practice of payment of banquet fee by the Association for members be discontinued.

RESOLVED: That the Executive Council adjust the compensation of the Secretary and Treasurer from time to time as conditions may warrant.

RESOLVED: That Article XVII of the Constitution be amended to read as follows:

"Article XVII. The annual dues of members shall be five dollars (\$5.00), to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default."

RESOLVED: That the Treasurer report the delinquent members to the Executive Council, and otherwise comply with Section XIII of the By-Laws, and that it is the sense of this convention that the Executive Council cause the names of such members as may be reported to be stricken from the rolls, and that the delinquent accounts be carried in the records, and no member so dropped shall be entitled to re-apply for membership until such indebtedness shall have been paid and satisfied.

Upon motion duly made, seconded and unanimously carried, this report was approved and the resolutions recommended by the committee were adopted.

THE PRESIDENT: I am going to ask Mr. John M. Murrell, Vice-President of this Association for this circuit, to preside for a few moments. I am going to call for the report of the committee on the President's report, and as I do not know what they are going to do for my report, I want to be on the floor, where I can fight for it the best I know how. I guess I will have to introduce Mr. Murrell as the man who got Governor Cox on the program for me.

Mr. John M. Murrell advanced and assumed the Chair.

THE VICE-PRESIDENT: We will now have the report of the committee on the report of the President—Judge Andrews.

JUDGE C. O. ANDREWS: Gentlemen, your committee presents the following report:

The undersigned committee, appointed to examine the report of the President and report with recommendations, beg leave to report as follows:

1. We advise the adoption of the first recommendation of the President relative to annual dues. (See Appendix, page 146.)

2. We recommend that the bill referred (see Appendix, page 151) to be approved and the passage thereof urged by the Association, with the following amendment:

On page 1, in Section 1, at the end of paragraph 1, strike out the following words: "The form of a joinder in demurrer shall be as follows or to the like effect:—The plaintiff (or defendant) says that the declaration (or plea) is sufficient in law."

And insert in lieu thereof the following:

"No joinder in demurrer shall be required, but the same may be immediately noted for hearing by either side in the manner required by the rules."

3. We advise the adoption of the third recommendation of the President. (See Appendix, page 146.)

4. The majority of the committee advise the adoption of the fourth recommendation of the President. (See Appendix, page 147.) Judge Andrews not participating in the deliberation for ethical reasons.

5. We advise the adoption of the fifth recommendation of the President. (See Appendix, page 147.) We further suggest that the number upon the jury list shall be substantially increased in the larger counties of the State.

6. We advise the adoption of the sixth recommendation of the President. (See Appendix, page 148.)

7. We advise the adoption of the ninth recommendation of the President. (See Appendix, page 148.)

8. We advise the adoption of the tenth recommendation of the President. (See Appendix, page 148.)

O. K. REAVES,
L. R. RAILY,
C. O. ANDREWS.

A lengthy debate was then had upon the report of the committee upon the President's report, and upon motion of Mr. M. Caraballo, of Tampa, seconded and duly carried, the report of the committee was adopted, with the exception of the second recommendation of the committee, which recommendation was rejected.

The President, Judge Armstead Brown, then resumed the Chair.

MR. GEORGE P. GARRETT: I am informed that the committee appointed to draft resolutions upon the death of the Honorable W. Hunt Harris, of Key West, of which Judge H. F. Dickinson was chairman, has not had sufficient time in which to draft these resolutions; I, therefore, move that this committee, composed of Judge Dickinson, Judge Branning, and Judge Henry Taylor, be authorized to draw resolutions of condolence for the convention, and present them to the family of Judge Harris, of Key West.

The motion was seconded and duly carried.

THE PRESIDENT: The next item of business is the report on nominations.

Thereupon the following officers were elected to serve for the ensuing year:

President

E. P. AXTELL Jacksonville

Secretary

HERMAN ULMER Jacksonville

Treasurer

PHIL S. MAY Jacksonville

Members of Executive Council

ARMSTEAD BROWN	Miami
O. K. REAVES	Tampa
FRED T. MYERS	Tallahassee
W. W. HAMPTON	Gainesville

Vice-Presidents from Each Judicial Circuit

FRANCIS B. CARTER, 1st Circuit.....	Pensacola
F. B. WINTHROP, 2nd Circuit.....	Tallahassee
J. B. JOHNSON, 3rd Circuit	Live Oak
R. H. ANDERSON, 4th Circuit.....	Jacksonville
R. A. BURFORD, 5th Circuit.....	Ocala
W. B. S. CRICLOW, 6th Circuit.....	Bradentown
CARY H. LANDIS, 7th Circuit.....	DeLand
A. V. LONG, 8th Circuit.....	Palatka
H. H. WELLS, 9th Circuit.....	Chipley
G. EDWIN WALKER, 10th Circuit.....	Bartow
H. PIERCE BRANNING, 11th Circuit.....	Miami
R. A. HENDERSON, JR., 12th Circuit.....	Fort Myers
N. B. K. PETTINGILL, 13th Circuit.....	Tampa
JOHN H. CARTER, 14th Circuit.....	Marianna
E. B. DONNELL, 15th Circuit.....	West Palm Beach
GEORGE P. GARRETT, 17th Circuit.....	Kissimmee

Upon motion duly carried it was ordered that the Association recommend to the Executive Council that the next annual session of the Association be held at Tampa.

The thanks of the Association were formally tendered to the Dade County Bar Association, to Judge Henry D. Clayton and the officers of the Federal Court at Miami, and to the Elks' Club for their efforts in making the convention a highly delightful and successful affair; and to the retiring President, Judge Armstead Brown, for his work in the arrangement of the splendid program of the convention.

Whereupon the convention adjourned sine die.

HERMAN ULMER,
Secretary.

NOTE

On the afternoon of March 19th, the members of the Association were entertained with a motor ride through the city of Miami and environs. On the evening of the same day the annual banquet of the Association was held at the Hotel Halcyon, at which Hon. W. H. Price presided as Toastmaster. Among those responding to toasts were: Hon. James M. Cox, Hon. W. J. Bryan, Hon. W. H. Ellis, Hon. Crate D. Bowen, Hon. Charles L. Cook, Hon. Jefferson B. Browne, Hon. W. E. Kay, and others.

On the afternoon of March 20th a thé dansant was enjoyed at the Hotel Flamingo.

After the formal adjournment of the business session at the Elks' Club on the night of March 20th, a delightful program of music and entertainment was followed by refreshments and informal addresses.

While being entertained as noted, the visiting members and their wives were guests of the Dade County Bar Association.

APPENDIX

Legal Status of the Negro

By HON. RAY RUSHTON
Of Montgomery, Ala.

Lord Shaw, of Dunfermline, in his address upon "The Widening Range of the Law" before the last meeting of the American Bar Association, called attention to the fact that American jurisprudence, in so far as it pertained to the law of contract, came to us highly developed from the common law, and graciously admitted that our contributions to that department of jurisprudence "have been very real and its literature almost monumental," but he, although evidently familiar with our institutions in a general way, said that our problems in the department of what he termed "The Law of Status" have been and still are so overwhelmingly extended that he, apologetically almost, suggested "that harmonizing them is a vain dream and an objectionable or impractical idea."

Observations like this by such a distinguished and learned British lawyer naturally suggest to American practicing lawyers, all of whom are, in a greater or less degree, students and historians, an interesting and profitable field for reflection. The law of status in America is and has always been, probably, more extended than in any country in the world. An interesting paper could easily be written on the status of the Indians, the Aborigines of America, who at one time were the owners of the land reaching from ocean to ocean, and the laws, treaties and other methods by which titles have been divested out of them and invested in us, as well as their personal status from time to time as wards of the Nation.

A paper might also be written with much profit on the status of married women from the time of the common law which treated them as the "weaker vessel" to the present time when justice has ameliorated their condition and made them the equal of men before the law in all respects, and gallantry still acclaims them our superiors.

Another interesting subject and probably a timely one, would be the status of the alien. The provisions of the Act of Congress permitting naturalization are confined "to aliens being free white persons, and to aliens of African nativity and to persons of African descent." No person between these two extremes need apply. The Supreme Court of the United States in the recent case of Takao Ozawa, the

Jap, and the more recent case of Bhazat Singh Thind, the Hindu, has said that it is not a question of superiority of one over another but merely the interpretation of ordinary language—and the Hindu was shut out although of Caucasian descent.

Another interesting phase of the law of status of more recent development is that of the child, as shown by the enactment throughout the country of Child Labor Laws and Juvenile Delinquent Laws, the former having become a national question and the subject of several proposed amendments to the Federal Constitution introduced in the recently expired 67th Congress, designed to meet a recent decision.

Any one of these different phases of the law of status would be properly the subject of a paper of rather extended length, in order to give it anything like intelligent treatment, and a paper covering all of them would be too much extended to impose upon this Association at any one time. I sincerely hope someone will in the immediate future trace the legal development of each of them.

For the present address I have selected from this branch of the law, The Legal Status of the Negro and will attempt without prejudice to trace the legal history of this class of our citizens by reviewing to some extent the various decisions of the State and Federal Courts which in a very lucid way portray his status from time to time in the past with the end in view of clearly defining to the usually well-informed lawyer, who has probably never given much attention to the subject, as well as to the uninformed citizen, who has probably never given any serious study to the question at all, a clearer view of his present legal status.

It is said that "The Englishman is at his best when doing justice," and the record shows that English lawyers and English judges have been wonderfully successful in carrying the principles of the common law, following their flag, into every country and every clime, and they have administered it to people of every color, race and creed in such a manner that English law is greatly respected throughout their vast dominions. But while the Englishmen's problems have, in many instances, been similar to our own, they have rarely had the "White Man's burden" presented to them at home. Our negro problem has, from the beginning, been a great deal more delicate for the reason that his presence was not on a distant shore, but in many instances under our own roofs, and in all instances at least in our back yards.

It is not my purpose to "open any old sores," and it is far from my purpose to make any suggestions along sectional or political lines; but,

merely to enable everyone, including the negro himself, to fully understand his legal status, I am hopeful of demonstrating—to the outside world and especially to learned and enlightened Englishmen—that even in this, the most difficult of all our problems, our courts and lawyers have made progress, and they look upon harmonizing it with law and principle, neither as a “vain dream” nor as “an objectionable or impractical idea.”

During his long habitation of Africa, the negro made no progress in the arts, science or education. It must also be admitted that in America, both as a slave and as a freed man, he has little to his credit by way of contribution to our modern highly developed civilization, except his docile performance of tasks of labor prescribed to him by others. With no outside interference he has in the main served well in felling the forests and tilling the ground; but everything materially connected with his presence in America has in its effect upon the white man ranged from degradation to tragedy, and, politically, from compromise to bloody war.

To song and story, and especially to humorous anecdote, he has, as a medium, been the chief contributor. Foster's songs, “My Old Kentucky Home,” and “Down Upon the Suwanee River,” have a charm that touches the heart even of the uninstructed, and yet charms and appeals to the greatest artists, while the strains of “Dixie” evoke an ejaculation miscalled the “Rebel Yell” that expresses throughout the civilized world, martial, enthusiastic patriotism. The fund of anecdotes that have been invented by our wits and humorists (no one knows who they were) and framed in the language of the darky would fill many volumes, and for many years the author who can master his dialect and at the same time delineate his philosophic characteristics, has had the greatest number of readers. The “Sayings of Uncle Remus” is a classic, and we must admit that nothing more closely approaching a distinctive American literature and folk-lore has been evolved than that which emanates, either in fact or fiction, from the negro's humble cabin.

In this “Government of Laws” every phase of human activity, or, we might more properly say, every phase of human dispute or differences of opinion, finds its way finally, in some form or other, to the Courts, and we will now proceed without further preliminary to review to some extent the many interesting cases in the books where lawyers and judges have in many various forms had to deal with these “persons of color” brought amongst us without their consent, tutelaged

by slavery from savages to docile domestics, instructed in a knowledge of the Christian religion, and finally at the cost of billions in treasure and the lives of the flower of a continent, admitted to the privileges of freedom and citizenship in a land and under a government where Opportunity offers the greatest rewards to Morality and Competency.

An examination of the various court decisions reveal some very interesting cases involving his status, and if I was disposed to treat the subject in anything like a humorous way, or to be guilty of alliteration I could well denominate this paper "Cuffy's Curious Cases in the Courts." However, the real questions involved were not only delicate but in their last analysis grave, prosaic and serious.

THE WORD "SLAVE" IS NOWHERE USED IN THE ORIGINAL OF THE FEDERAL CONSTITUTION.

At the beginning of the Government the negro question was a very delicate one with the fathers. In Jefferson's original draft of the Declaration of Independence the importation of slaves against our consent was one of the things charged to George the Third's Government. But it was stricken out before its adoption. Mr. Madison saw to it that the word "slave" was not used anywhere in the original of the Constitution. Neither is the word "negro" used. They are spoken of as "persons," "persons bound to service," and "persons held to service or labor." The fathers fully recognized the evils of slavery and would have, no doubt, provided for its complete abolition, had it been feasible. But under the circumstances they had to content themselves with giving the general government the power to prevent the traffic, and even had to forego the exercise of that power until after the year 1808. It would be ungenerous on our part to criticise them for not settling the matter at once and for all time. At that time slavery existed in some form in all of the states, and they probably did as well as could be expected when they accorded to the general government the postponed power to stop the traffic. It must be remembered that we in modern times began the war on the liquor evil by first attacking the traffic. The result was that negroes were left in the condition of property with a guaranty of protection as such to their masters.

THE ORIGIN OF SLAVERY IN AMERICA.

In the case of "The Antelope," 10th Wheathon, 66, Judge Marshall gives the origin and the history of slavery. He says:

"But from the earliest times war has existed, and war confers rights in which all have acquiesced. Among the most enlightened

nations of antiquity, one of these was, that the victor might enslave the vanquished. This, which was the usage of all, could not be pronounced repugnant to the laws of nations, which is certainly to be tried by the test of general usage. That which has received the assent of all, must be the law of all.

"Slavery, then, has its origin in force; but as the world has agreed that it is a legitimate result of force, the state of things which is thus produced by general consent, cannot be pronounced unlawful.

"Throughout Christendom, this harsh rule has been exploded, and war is no longer considered as giving a right to enslave captives. But this triumph of humanity has not been universal. The parties to the modern law of nations do not propagate their principles by force; and Africa has not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. Can those who have themselves renounced this law, be permitted to participate in its effects by purchasing the beings who are its victims?

"Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself as a part, and to whose law the appeal is made. * * * A jurist could not say that a practice thus supported was illegal, and that those engaged in it might be punished, either personally, or by deprivation of property."

From the Antelope Case we learn, therefore, that the negro's status as a slave resulted from their being unfortunate captives in wars between tribes of their own race in their home in Africa, and it is further shown from the opinion and magnificent briefs of counsel in the Antelope Case, that slavery was introduced into America among us during our colonial state against the solemn remonstrances of our legislative assemblies. Free America did not introduce it. She led the way, in a measure, toward prohibiting the slave trade. The Revolution which made us an independent nation, found slavery existing among us as a calamity entailed upon us by the commercial policies of the parent country. In an attempt to mitigate the evil at its source, it was felt that we were compelled to tolerate the existence of domestic slavery under municipal laws.

The Antelope Case involved the rights of citizens of Spain and Portugal and in it Marshall was passing upon the slave trade as affected

by the Law of Nations, but he also wrote the opinion in at least two other cases which involved the status of the negro from the standpoint of domestic law.

In 1783, more than four years before the adoption of the Constitution, the State of Maryland passed an act entitled "an Act to prohibit the bringing of slaves into the state," in the body of which act it was provided that "after the passing of this act it shall be unlawful to import or bring into this state, by land or water, any negro, mulatto or other slave, for sale, or to reside within this state; and any person brought into this state as a slave contrary to this act, if a slave before, shall thereupon immediately cease to be a slave and shall be free." The act contained a proviso that its provisions should not apply to "any citizen of some one of the United States carrying his slaves into this state with a bona fide intention of settling therein," and permitted such citizens to bring his slave with him, but prescribed that he should prove to the "naval officer or collector of the tax," the *bona fide* intention to settle in the state and that such slave or slaves had been an inhabitant of one of the United States for three whole years next preceding such importation. In the case of *Scott v. Negro Ben*, 6 Cranch 3, Judge Marshal said, "Upon an attentive consideration of the language of the act, the majority of the court is of the opinion that the property of the master is not lost by omitting to make the proof which was directed, before the naval officer or the collector of the tax, and that the fact on which his right really depends may be proved notwithstanding this omission."

In 1792 the State of Virginia passed an Act, the first section of which read as follows: "Slaves which shall hereafter be brought into this commonwealth, and kept therein one whole year together, or so long as at different times shall amount to one year, shall be free." The 3rd section provided a penalty, and the 4th section also contained a proviso that it should not apply to a *bona fide* settler who brought slaves with him, if within sixty days he made an affidavit before a Justice of the Peace that his "removal into the State of Virginia was with no intention of evading the laws for preventing the further importation of slaves," "nor have I brought with me my slaves with an intention of selling them, nor have any of the slaves I have brought with me been imported from Africa or any of the West India Islands, etc." In the case of *Scott v. Negro London*, 3 Cranch 324, Judge Marshall held that the mere fact that the slave was sent into Virginia

and there lived before the master came to reside, did not give freedom to the slave.

In the case of *The Brigantine Amiable Lucy v. United States*, the Supreme Court, of which Marshall was Chief Justice, held, without writing an opinion, that the act of Congress of the 28th of February, 1803, prohibiting the slave trade did not apply to the Territory of Orleans, since its territorial Legislature had never prohibited such importation.

The second section of the Constitution of the State of Mississippi, adopted the 26th of May, 1832, declared that the introduction of slaves into that state, "as merchandise, or for sale, shall be prohibited from and after the 1st day of May, 1833." Before any legislation was enacted to carry this provision of the Constitution into effect, John W. Brown executed his promissory note to R. M. Roberts for the purchase price of slaves brought into the state. Suit was brought on the notes against the endorers of the note by the purchaser of the note in the U. S. Circuit Court of Louisiana, and the Supreme Court of the United States, on appeal in *Grover v. Slaughter*, 15 Peters 449, after Marshall had died, but while Story was still on the Bench, held that the provision of Mississippi Constitution was addressed to the Legislature, and that a note given prior to the Act of the Legislature of 1837 carrying the same into effect, could not be pronounced void as illegal, and contrary to public policy. The elaborate opinions in this case, rendered in 1841, and the thoroughness with which it was argued by counsel show the increasing perplexities that thought and perhaps agitation were bringing on.

THE FUGITIVE SLAVE LAW.

The Acts of Congress of 1793 and 1850, generally known as "The Fugitive Slave Laws," were upheld by the Supreme Court. The enforcement of these laws brought about so much friction, so much of sectional feeling, and in some instances, such defiance and nullification, that we refrain from any extended comment on the decisions upholding them. A perusal of them will convince the student that the courts in their decisions in most instances, declared the law as it was, and refrained from assuming to make the law as they might want it to be. If anyone should feel disposed to pursue this branch of the question, I suggest he read the opinion of Judge Story in *Prigg v. The Commonwealth of Pennsylvania*, 16 Peters 539, where he says in speaking of the Constitutional provisions:

"The clause manifestly contemplates the existence of a positive unqualified right on the part of the owners of the slave, which no State law can in anyway qualify, control or restrain."

THE DRED SCOTT CASE.

In 1856 the United States Supreme Court decided the famous case of Dred Scott vs. Sanford, 19 Howard 393, in which each of the Judges wrote a separate opinion. It was decided that the status of the negro was different under the Federal Constitution in the Louisiana Territory purchased from France, and the Northwest Territory ceded to the United States by the State of Virginia, that the famous Act of Congress known as "The Missouri Compromise" was unconstitutional and void; that a citizen of a state, which permitted slavery, had a constitutional right to take his slave into that Territory, and that an Act of Congress prohibiting slavery in a certain part of that Territory, if construed to declare that he was, by his transportation thereto, free, would be to deprive the master of his property without due process of law. From this decision itself, and the utterances of statesmen, and politicians of the time, we gather that the controversy then was over the extension of slave territory, with no serious contention on the part of anyone that the Federal Government had the Constitutional power to emancipate the slaves within the territorial limits of a state which recognized its existence.

THE CIVIL WAR.

Secession followed the election of Lincoln and the Confederate Government was organized at Montgomery before his Inauguration. War followed and "war power" soon changed the negro's status again. At first when the Federal army captured negroes or they escaped to it, they were returned, but General Butler, always a humorist and often a wag, regardless of the feelings or rights of others, adroitly adopted the theory, that since negroes were employed by the Confederacy in aid of its armies that they were legitimately "contraband of war," and this policy was generally adopted throughout the Federal army. So wars in Africa had, according to Judge Marshall in the Antelope Case, made him a chattel, and now war in America declared him an article useful for military purposes.

The Presidential Emancipation Proclamation followed soon afterwards based solely upon the proposition that it was a war measure, destructive of enemy property.

The Courts, of course, had no part in deciding the issues of the war. Fighting was the sole argument, and the sword the only arbiter. So far as any information is given us by Court records of that period we can almost say with old Casper to little Peterkin, "We know not what 'twas all about" but "'Twas a famous victory." So in order to hold the thread of events we must make a slight excursion into contemporary history.

Professor Fleming of Louisiana University gives the following statistics:

"Of 8,000,000 whites in the South in 1860, there were only 384,000 slave owners and 277,000 of these owned fewer than ten slaves and 212,000 fewer than five. Only 10,780 owned fifty or more."

He also says: "A large number of the slave owners worked in the field with their bond servants," and he declares that 6,000,000 whites in the South in 1860 had no interest in slave labor.

Notwithstanding only twenty-five per cent of the people were directly interested in the negro as property, the people of this section of the country, where, for various reasons, principally climatic, slavery was alone existent, with remarkable unanimity said with Yancey, "Twelve states have passed laws nullifying the fugitive slave law, and made it a crime in their citizens to aid in its execution, punishing such action by heavy fine and imprisonment in the penitentiary. The compact then has been broken, the Union has been dissolved. A compact broken in part is broken as a whole if either party chooses to so consider it."

One side said to the other, you have no right to go out of the Union. The other side said we have a right to withdraw from it for the reason that you are preparing to and in some respects have already violated the compact supposed to cement it.

The surrender at Appomattox settled the question that no State had the right to secede, but it settled nothing else. Abolition of slavery followed as a penalty on the losers. We will before continuing with the changed status of the negro, here pause to say its abolition set the white people free. Regretting that it could not have been accomplished in some other way, we must now admit that it was worth the price to us.

The terms of Lee's surrender were honorable, granted by generous conquerors to a respected foe. The great armies on both sides, who had performed such great feats of daring as to meet the acclaim of two continents, almost overnight faded away and the gallant men

who composed them returned in peace to their long-neglected homes; and the fate of the negro was no longer with soldiers in the field but was transferred again to the halls of Legislation and to the Forum.

THE WAR AMENDMENTS.

The heart of Lincoln which beat in sympathy with all humanity, white and black, and to which never flowed a drop of selfish blood, soon ceased to beat as the result of the foolish act of a madman, and the destiny of the General Government and the subsequent fate of the negro fell into the hands of his party associates. But notwithstanding their complete control of all three of the Departments of Government, the Executive, Legislative and Judicial, our institutions were such that they had to acknowledge they could accomplish nothing to carry out their purposes until they had amended the Constitution. The 13th, 14th and 15th amendments, which followed, are therefore solemn admissions on the part of the United States Government itself that the decisions holding that the Federal Government had from the beginning been without power to change the original status of the negro were correct. Considering the feeling and bitterness that actuated, as shown by other legislation, the Congress who proposed these amendments, it is a remarkable coincidence that the language of the 13th amendment that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction," is almost a verbatim copy of the clause inserted at the instance of Jefferson in the articles ceding the Northwest Territory to the United States by the State of Virginia; and that, while the first sentence in the 14th amendment was designed to change the Constitution as to the negro's citizenship as declared in the Dred Scott case, the succeeding language as to abridging the privileges of citizenship, and depriving any person of his property without due process of law, is very similar to that used by the Court in saying that the master's property could not be taken from him by legislative act.

THE NEGRO NOT A WARD OF THE NATION.

After the abolition of slavery several courses were open. His deportation or his separate colonization would have been legal, but neither was hardly thought of. The Constitution might have been so amended as to give the Federal Government full power and authority over him to the exclusion of state authority, but such would have been revolutionary. The 13th Amendment declared him free, the four-

teenth declared him a citizen—both of the United States and the state of his residence—and prohibited the states from denying him the rights of a citizen under the law and in the Courts.

Every line and every page of human liberty has been written in human blood. But in every other instance the race obtaining the boon of liberty had shed their own blood. The negro obtained his as a free gift. Citizenship is the most desirable privilege obtainable in any government. The Apostle Paul was very proud of his Roman citizenship. When the chief captain said to him, "With a great sum obtained I this freedom," Paul said, evidently with a great deal of pride, "But I was free-born." Paul would probably never have gotten to Rome but for the fact that as a Roman citizen he had a right to "appeal to Caesar." But the negro had citizenship thrust upon him. He was neither free-born nor did he pay any "sum," or make any sacrifices for it.

It is a trait of human nature not to appreciate that which is given. We enjoy most that which we earn by our own endeavor. The negro with his new-found liberty and citizenship, was at first both demoralized and confused. The sensible members of his race now know that they can never expect to realize very many of the blessings of either, until they shall have by their own efforts labored long and patiently in an attempt to attain a status worthy of their high privileges.

Notwithstanding the origin of the very language principally used in the 13th and 14th amendments, the very members of Congress who proposed them and urged their adoption seem to have little understood their actual meaning. The legislation which followed them, therefore, came eventually to the courts; and again the lawyer and the courts were to have their say as to the status of the negro after their adoption.

The most noted of these cases are what are known as the "Civil Rights Cases" reported in 109 U. S. 3, decided in 1883. Congress, in 1875, had passed an act asserting "That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land and water, theatres and other places of public amusement subject only to the conditions and limitations established by law and applicable alike to citizens of every race and color, regardless of previous conditions of servitude," and prescribed penalties for the denial to any citizen of such accommodations, privileges, etc.

Nichols was the proprietor of a hotel in Missouri, Stanley a hotel-keeper in Kansas, Ryan a manager of a theatre in California, Singleton, owner of a theatre in New York. All were indicted in the United States Court for violating the act in the respective districts in which they resided. A suit had also been brought by a negro in the United States Court in Tennessee for the penalty of \$500.00, provided in the act, against a railroad company for not permitting his wife to ride in the ladies' car. The opinion of the Court was written by Mr. Justice Bradley who, after declaring the act unconstitutional, used this language:

"It would be running the slavery argument into the ground, to make it apply to every act of discrimination which a person may see fit to make as to the guest he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theatre, or deal with in other matters of intercourse or business. Innkeepers and public carriers, by the laws of all the States, so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws themselves make any unjust discrimination, amendable to the prohibitions of the 14th Amendment, Congress has full power to afford a remedy, under the amendment and in accordance with it.

"When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the place of a mere citizen, and ceases to be the special favorite of the laws, and when his rights, as a citizen or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty and property the same as white citizens; yet no one, at that time, thought that it was any invasion of their personal *status* as a freeman, because they were not admitted to all the privileges enjoyed by white citizens, or because they were subjected to discriminations in the enjoyment of accommodations in inns, public conveyances and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery. If, since that time, the enjoyment of equal rights in all these respects has become established by constitutional enactment, it is not by force of the 13th Amendment, which

merely abolishes slavery, but by force of the 14th and 15th Amendments.

"On the whole we are of the opinion that no countenance of authority for the passage of the law in question can be found in either the 13th or 14th Amendments of the Constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned."

Mr. Chief Justice Brewer also said, in *Hodges vs. U. S.* 203, U. S.:

"At the close of the Civil War, when the problem of the emancipated slaves was before the nation, it might have left them in a condition of alienage, or established them as wards of the government, like the Indian tribes, and thus retained for the nation the jurisdiction over them, or it might, as it did, give them citizenship. It chose the latter. By the 14th Amendment it made citizens of all born within the limits of the United States and subject to its jurisdiction. By the 15th it prohibited any state from denying the right of suffrage on account of race, color, or previous condition of servitude, and by the 13th it forbade slavery or involuntary servitude anywhere within the limits of the land. Whether this was or was not the wiser way to deal with the great problem is not a matter for the courts to consider. It is for us to accept the decision, which declined to constitute them wards of the nation or leave them in a condition of alienage where they would be subject to the jurisdiction of Congress, but gave them citizenship, doubtless believing that thereby in the long run their best interest would be subserved, they taking their chances with other citizens in the state where they should make their homes."

STATUS AS A VOTER.

By the same right, conceding there was such right, that the 15th Amendment was adopted in its present form, an absolute right to vote could have been conferred upon the negro. It could have said the right of citizens of the United States to vote should not be denied or abridged by the United States or by any state on account of ignorance, poverty, race, color or previous condition of servitude. Or, using different phraseology, it could have said, all citizens of the United States, 21 years of age, and upward, shall have the right to vote in all elections by the people, etc. But, as adopted, its plain language still leaves the states the right to prescribe qualifications of voters in all

elections with the sole limitation that race, color and previous condition of servitude shall not be the deciding factor of the discrimination. The 15th Amendment does not give the negro or to any other citizen the unqualified status of a voter, but he, like all others, takes his status according to merit and the laws of nature. Boys, under 21 years of age, are citizens, but on account of their infancy and lack of maturity, they are not allowed to vote, but have been forced to wait until they arrive at an age of discretion. At the close of the war the negro race was, and mainly still is, in its infancy, and this infancy and lack of maturity and discretion is still a legal disqualification, applying to him, not on account of his race or color, but on account of this natural mental and moral condition. It is a mistake to say that any state has or can legally, by evasion or otherwise, prevent him from voting solely because of his race or color, but it is just as much a mistake to say that it cannot prevent him from voting for any other reason. The courts have settled this and it is now beyond dispute. See U. S. vs. Reese, 92 U. S. 14; Guinn vs. Al. S., 238 U. S. 347.

EXERCISE OF POLICE POWER NOT A LEGAL DISCRIMINATION.

The right of the state to provide for separate schools, cars on trains, to prevent miscegenation and marriage between the races and generally to prescribe any law or regulation separating the colored race from the white race are all questions that have been finally settled by Federal decisions and Supreme Courts of the States in all sections of the country.

Our whole system of guaranty of the right to life, liberty, property and the pursuit of happiness, by the guaranty of all four necessarily implies that at times and under some conditions the right to one must give way to the other. "Pursuit of Happiness" to a large extent includes and comprehends the other three. That right can only be attained in communities and among people who concede that their liberties are greatest when regulated by law. That preponderance in numbers of one race over the other in some sections of this great country make it desirable and best for all concerned to have different race laws than in communities where such conditions do not exist is no argument that our laws are not in harmony.

ROMANCE AND SENTIMENT.

Writers of fiction, with a desire to please the reader, have given many false pictures of southern conditions both before the war and after. One reading them, who is unacquainted with the actual facts,

gathers the false impression that before the war everybody was rich and aristocratic, lived a life of ease and luxury, lavish in hospitality with the fruits of the labor of his slaves. That since that time they have brooded over their losses of property and felt incapable of earning their own subsistence. The casual visitor also gets little idea of the true state of affairs. His main contact is with the porter on his palace car, the waiters in hotels and the servants in the homes of the well-to-do and the products of "mammy's kitchen." Of its prosaic bearings, on the farm and in the fields and factories, he learns little.

In addition to this, and to the demagogue, there is also "The Professional Southerner" so well described by Irving Cobb, whose main residence is in the lobbies of northern hotels and whose only target has been the cuspidor, whose main subsistence was the free lunch counter and whose stock in trade was boasting of ancestors. The 18th Amendment may have so far been a failure in that in abolishing the barroom it established the blind tiger, but to the relief of all self-respecting cultivated Southerners, it has eliminated the free-lunch counter and we hope starved out this false representative of southern culture, thought and manners.

The actual facts are that only a small percentage of negroes are domestic servants, and only a small percentage of white people in the South now can, or could before the war, indulge in the luxury of servants. The great majority of both races have been from necessity and now for the same reason are compelled to either earn wages or produce, by labor, the necessities for existence. In this way there is competition between them, but to our credit this competition is rarely the source of race conflict. Unfortunately there are vicious members of both races as there naturally is everywhere. There are vicious white men who would, if not restrained by law, impose on his fellows of any race, and while in the main the negro is not a trouble-maker there are some who are not only vicious, but fiendish. It is this latter class that give trouble and they are in fact the ones that make the race problem.

JUSTICE IN THE COURTS.

It can be said in all fairness that the negro has as to his personal and property rights always had justice meted out to him in the courts accordingly as the law of the time measured them. Diligent search of the books fail to disclose a single judicial opinion to the contrary. Lawyers have represented him, often by appointment of the court and without pay and given him all the advantages of their skill and dili-

gence. Jurors in the main are just to him. It is often the case that a jury in my county, in the heart of the Black Belt district, will stay out all night and often make mistrials over negro cases, both frivolous and grave.

With the gradual shifting of population of both races, towards the south by one and to the north by the other, acquaintanceship and experience will lead to similar regulations everywhere, and it will all come right in the end. "History writes its record slowly." Patience, tolerance and charity will clear it all up, finally.

But to get justice in the courts is not the full measure of his rights. He is entitled to his day in court. Mob law has no place where the English language is spoken. And regardless of his rights, its blight must be lifted from us who dominate and who must continue to dominate.

The excuse for it in the past completely refutes any argument for it now. White men everywhere are in control and make and administer the law. To complain that the courts established by them are incompetent or will fail with all reasonable promptness to mete out requisite punishment for all crime, however fiendish, is to admit that our civilization is a failure. To administer justice according to our own laws is admittedly a matter that is completely with the States, free from interference or control of the General Government. This power carries with it a duty, and as we discharge it we must answer to God and the civilized world.

The recently defeated act in Congress to impose a penalty on the county or municipality in which a lynching occurs in favor of the family of the person lynched, outside of its unconstitutionality, would not have corrected the evil. To give a large sum of money out of the local public treasury to the family of the miscreant, probably no better than he, would do little to correct the evil and incidentally create a greater. The mob doing the lynching would probably terrorize the family from claiming the penalty or deprive them of it if received.

A SUGGESTED PRACTICAL REMEDY.

The evil has now become so wide-spread and extended and has so many unthinking adherents that its complete eradication will only come in time and by outspoken and courageous patience.

The worst and most demoralizing instance of lynching is where the mob takes the prisoner from the sheriff, combining murder with insult to and disrespect of the law. Cowardly public officials have often

been known to surrender their prisoners without firing a shot. The new Constitution of Alabama provides that "wherever any prisoner is taken from jail or from the custody of any sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, cowardice or other grave fault of the sheriff, such sheriff may be impeached" by the Supreme Court of the State.

Since the adoption of this provision in our Constitution it has been vigorously enforced and one sheriff impeached thereunder, and others put on trial. The result has been good and we have now few instances of prisoners taken from the custody of the law. It is a wise provision, of much credit to its author, the late Thos. G. Jones, Ex-Governor and Judge of the Federal Court, and its adoption by all states would be a wise measure. Thoughtful attention to the subject will suggest other measures.

We cannot content ourselves with saying that others do it, or that others under the same circumstances would do the same thing. We have the power to suppress this evil thing that has grown up amongst us and spread to other regions, and at times to members of our own race, and courage to do it should not be wanting in the sons of men who followed Lee and Jackson and who said with Yancey:

"To do one's duty is man's chief aim in life. Better far to end our days by an act of duty, life's aims fulfilled, than to prolong them for years—years filled with the corroding remembrance that we had tamely yielded to our ease and our fears that noble heritage that was transmitted to us through toil, suffering, battle and victory, with the condition that we likewise transmit it unimpaired to our posterity."

This is and must forever be "A Government of laws and not of men." It is by adherence to this principle that we may continue to be an example to the men of every race and every creed in every clime and lead them to the "blessings of liberty, regulated by law."

Some Thoughts On Existing Conditions

By HON. WM. E. KAY
Of Jacksonville

I will confess to you that while here recently interviewing your President, I was asked to make a talk during the program of these two days. I reluctantly consented, and evasively gave him as my subject "Some Thoughts on Existing Conditions," thinking that I could in the meantime collect some thoughts, but I find I am about as far from anything that could have relation to the subject this afternoon as I was then.

However, as oratory is not especially needed at these meetings, and there are plenty who have well digested papers to read, it may be that an incursion into the thoughts that occasionally come up in our minds might be instructive, if not altogether entertaining.

As one who loves the Constitution of the United States, who believes it to be the most perfect document ever produced, standing, as it has stood, the test of time, equal to all emergency; believing as I believe in the reserved power of the states, that in that check and balance between that which was granted and that which was reserved is the best way of preserving a republican form of government; believing as I do that those checks and balances were devised by the fathers in order that representative government might exist, and that a pure democracy was not intended by the fathers as best for the people, I view with alarm, and I note with regret, the tendency that seems to be growing, fostered by men representing the States in the National Congress, to make this a government by commission, to constantly surrender into the hands of commissions and other features of central government those things that ought to and should be kept within the power and domain of the States.

When I consider the growth of this republic, carrying as it does above the hundred million mark, and increasing rapidly, I realize that in the preservation of a republican government we must return to the thoughts of the fathers, and let the states resume the full exercise of those reserved rights which they unfortunately have from time to time been surrendering, so that today instead of being a representative form of government it is largely going into an autocracy on the one hand and a pure democracy on the other.

Much has been done by federal legislation, but it took the action of the states themselves in the passage of the Eighteenth Amendment, for the first time in the history of these people, to surrender into the federal government the police power of the state. Once surrendered, who will draw the line as to where the next surrender will occur? If it be announced that the sovereign states are impotent to enforce within their borders legislation that they enact, and that only by the aid of the general government can these police powers of the state be so accomplished through governmental agency as to make them effective, may not they who believe in sumptuary legislation in some other form invoke the same action, go through the same machinery, spend the enormous amounts of money in the magnificent organization which resulted in the Eighteenth Amendment, to put some new amendment over upon all the people of all the states, when these things should be enacted, if at all, as measures of relief by the individual states alone?

Mark you, I am no advocate of intemperance. I have no quarrel with any legislator or any speaker who points out the evils that liquor has produced, but I do suggest that, no matter how great the evil may be, the surrender by the states of one iota of their police power has never yet been justified by the doctrine of convenience, or the call for morals.

Not merely have these surrenders been made by legislative enactment under commission form and constitutional grant, but we have had by court utterances construction which is little short of legislation. The high court that, in *Paul vs. Virginia*, in the early days of the last century, said that insurance was not a matter of commerce, that the general government had no right to regulate or deal with the question of insurance, and that today, vital and important as it is, is an artery of commerce, dealing in almost every transaction of commercial life, yet stands out isolated from the power of regulation, while the lottery ticket, the bird that courses along in the air, the Mann White Slave Act, which was intended to meet an impending evil, have all been so construed that they are within the domain of the general government. Today it takes a bold man to say where the line will next be drawn. With the numerous decisions that the bar must face, aggression after aggression under a form of federal regulation or federal judicial utterance finds these states, and their people, facing a situation where the greater the country grows the smaller are the rights of citizenship of the states.

Now, my friends, this is but one thought. Another thing that must give us pause, are the things which we meet in daily life; that is, the tendency of people to organize so as to set themselves up above the law. Although the people of Florida had an experiment brought about by a man who came into this state, and was hardly here long enough to be a qualified voter, who led a movement and preached a crusade that was so absolutely silly in itself that it was a marvel that anyone could listen to it and take it seriously, yet this man for four years warmed the Governor's seat. Thank God, the state did not suffer as much as it might have. But Florida had it coming to her, and she got the dose. Fortunately, the dose was curative and not fatal.

Such things come and go. Woodrow Wilson says in his political history of the United States that in the early fifties propaganda was worked up and a wave of persecution swept over the country against the Masonic order, mobs wrecked halls where there was an assemblage of Masons, and a man who carried the badge of Masonry almost carried his life in his hands. It seems strange to learn that such was the case; and yet, today, not merely in the state of Florida, but all over the United States, the idea has gone forth that the law is impotent and there must be some power higher than the constituted authorities. Oath-bound bodies gather in secret in the darkness, clothe themselves in white robes something like nightgowns, or other garments of similar nature, and are "The Invisible Empire"—save the mark! Men are attracted by the high-sounding, silly titles which their officers bear—some join on the idea that there are real abuses to be remedied; others in the idea that they can be very well misused for political purposes and personal aggrandizement; hence it is that there exists, not only in the state of Florida, but in various parts of the United States, something that is called the Ku Klux Klan, the very existence of which is a challenge to republican government, and an insult to modern civilization. Just as long as men can be misled, just so long will these organizations grow and have recruits, some ignorantly, others purposely; with the sure result that you will find more or less of your public offices filled by men who have sought the patronage and backing of just these men.

And what are they doing? Oh, well, they are going to set the Jews to rights. I might remark here that many of those who tell you about the Jews and what a great menace they are to civilization had forebears who are to be traced back to the time when they got their food like they won their wives—with clubs, whereas the men that they are assailing, traced back to a similar period, were kings on the seven hills

of Israel. They have scattered because the Gentiles scattered them. They had no place they could call their own. Necessarily, ready to move on at any moment, they had to have their property in portable form, and living in grottoes, persecution sharpened their wits. Denied the opportunity to enter the great schools or universities or to be members of the learned profession; the very conditions under which they lived prevented their being land owners and tillers of the soil; they had to be bankers, merchants and traders. They invented the bill of exchange, and had a code of communication which was so thorough that those who had occasion to study their methods or communication marveled at the efficient way they provided by which to keep in touch with their scattered colonies in far distant kingdoms of the earth. Just so long as they are persecuted, just so long they are going to have their individuality. Just so long as they are Hebrews and maintain the Hebrew faith, they will be strong; sharpened with the wits of twenty centuries of persecution, they will excel where the Gentile will fail, and the Gentile taught them how. The energies of this organization, and the activities of others, are misdirected. The Jews are a law-abiding race. They stand for the upholding of government, and instead of being the subject matter for attack their citizenship is displayed on every opportunity for law-upholding, their charity which is not confined to their own race but when invoked is extended to all who are needy and suffering, give an inspiration which the Gentiles could well afford to pause and study and admire, and much of which they could follow with great good to themselves and their surroundings.

I believe agitation went up against those who were Catholics. During the regime of a certain governor it was thought that every cellar in Jacksonville in a house occupied by a Catholic was filled with bombs, rifles, everything ready to go forth and capture the state of Florida. Of course, they would have taken it away from the United States, and when the Pope arrived there would have been a Papal government imposed upon the hot sands of Florida. Yet people believed in it, and it took the great war with Germany to show that this country was one hundred per cent clean and fine, that whatever men may think about religion, when the eagle screams, the stars and stripes float, and the flags are flying are all there, one hundred per cent strong Americans, reflecting on foreign soil the finest citizenship and the noblest men that ever carried a gun.

They tell us again about the law; that the law is all wrong, not so much as written, but as administered. And about the law's delays.

Now, I want to admit here frankly, my friends, that the public have a vested right in the administration of the criminal law, and they have no rights except those of litigants in the administration of the civil law. If litigants want to protract their causes in the courts until the end of time, it is nobody's business but their own, and so far as I am concerned, I would be glad to see every civil controversy between individuals fritter itself out in the law's delay, and never come to trial; I think we would have a better lot of people if we had fewer civil trials. But in the criminal law, it is different. If the laws of the state have been violated, and a man is accused of a crime, that man ought to be promptly put on trial. They tell you that justice fails, the jury doesn't convict, smart lawyers get up all sorts of subterfuge and evasions, and fool the juries. If there is an absence of proper judicial finding, it is not to be laid upon the judge. And where is it? It is upon the class of men in this country who have either inherited or acquired wealth, men of education, who stand out and criticise the courts while each and every one of them carefully refrains from serving upon the juries. If there is a failure of justice, it is because of the jury box. They tell me that a smart lawyer can get any criminal out of the jaws of justice. A smart lawyer may perpetrate many tricks, but I tell you that when you put in the jury box men of intelligence and character and firmness those tricks will go for naught, and the intelligent man who stands for doing his duty, and who will sit in the jury room until the year ends, will prevent the miscarriage of justice—and yet they won't do it. They prefer to go around criticizing the courts, criticizing the lawyers, rather than performing their duty of sitting in the jury box and seeing that justice is administered.

What next? I come now, members of the bar, to my old, familiar subject. I have cried that Carthage must be destroyed, but I here again raise my voice for bar integration as the solution of one of these troubles about which I have been talking. Is the standard of the bar all it should be in this state? Is the only test in this state that of educational ability to pass an examination? If so, ought there not to be another examination, which goes much higher, and the true test of what a lawyer ought to be, that of character? Many a man can get his certificate which entitles him to practice law, by answering the questions upon the list. That should be one test, but there should be another and supreamer test, and that is, What is your education, what is your environment, what have you done, how are you showing that you have the qualities of citizenship that in the practice of this profes-

sion will make you a useful member, and will tend to elevate society? We have got a right to see that every member of the bar is a clean, honest man, although he may not be an able man. Let the appreciation come that a bar thoroughly organized, working on lines with the English system, which have been demonstrated as a success, policed from within, repelling evils from without, they can so raise the standard of public esteem that the mere fact that a man is a member of the Florida Bar Association is an introduction as a lawyer and a gentleman.

Why are we lagging in this work? Is it because the lawyers of this state, who justly are entitled to control the legislation and to form the policies of the state, the men who are called upon in every crisis to lead the way, the men who have ever responded in every crisis and led the way, are inactive? Should they not in this important matter lead the way to Tallahassee at this session, and say to the Legislature of Florida, "The bar of Florida must be integrated, not merely for its good alone, but for the good of all the people"? Pass this measure; watch the test; and if the men who have been preaching this crusade as I have been preaching it fail to justify themselves by their works, then the same body that created can destroy. With me, who can see the shadows falling in the West, I say to you, my friends, I have no selfish purpose in view, for the thought that I want, because of my corporation affiliations, to keep out the poor man from bar admission, or the man with little faculties for the practice, is absurd, certainly, for as far as corporations are concerned the less ability the man has that sues them the better satisfied they are with the form of declaration and other procedure.

Mr. President, I have taken up more time than I should. The subject is one that interests me greatly. As I said before, I believe in organization, and I know what organization means. If some of you gentlemen had to face, as I have to at times, the chairman of the grievance committee in some of the organized branches of labor, you would realize just what the arrogance of power is, welded together as it was welded and enforced when the disgraceful thing known as the Adamson Act went on the books of Congress. I want to see some good organization amongst the lawyers. They are so prone to organize anybody else but themselves, and they are doing so much every day of their lives to scatter aid and assistance, and are so busy that they overlook the very vital proposition of "*Why not commence organizing at home?*" Keep going with your organization at home; make it better and better every day and in every way; and this is a thought that I give you, in conclusion, gentlemen, from the bottom of my heart.

The Law Does Not Concern Itself With Morals

By HON. R. L. ANDERSON, SR.
Of Ocala

You will note that I have selected for a subject this important utterance of Sir William Blackstone, who should be, among lawyers, quite a respectable authority.

I wish also to incorporate, as a component part of the topic to be discussed, the following, which you will recognize as an extract from the immortal Declaration of Independence:

"We hold these truths to be self-evident: that all men are endowed with inherent and inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

Lawyers hold a high position, and wield an influence among their fellowmen, and this imposes grave responsibilities. It is high time, I think, that lawyers should take a firm stand upon one subject, namely, the futility of law in dealing with moral conduct.

It is undeniable that the Puritanical idea of government in our country still persists. Also, it cannot be disputed that in recent times this idea has carried us so far into political error and folly that our people have almost learned to rely wholly upon governmental force, rather than upon moral influence, in matters relating to citizenship, and personal morality.

Multiplicity of laws, obedience to which is to be enforced by penalties, is supposed to be the panacea for all moral weakness and evil.

The people are to be forced by law to be good in their private lives. The law of the land is to supply a missing moral backbone.

Puritanism has produced the situation where today laws attempting to control moral duties, manners and customs are held in contempt. This condition is brought about because the people instinctively see and realize the fallacy, as well as the hypocrisy, of seeking to enforce morality through governmental power. They recognize the present-day truth, to-wit: that uplifting has become a profession, and a well-paid one, and that morality has been capitalized for the greed and

glory of self-seekers. They perceive that in our public professions, our public contacts, such as legislative bodies, newspapers, books, and magazines, the lecture platform, and political party declarations, we are merely play-acting; that our whole outward or public attitude is a mere pose.

Our law-making power is misused and diverted from the proper function of law which properly deals only with private and public rights, and with private and public wrongs. Legislative bodies are busily passing laws designed to control moral duties, and thus seeking "to pass the buck" by putting upon government the duties and responsibilities belonging to ourselves as individuals. In this respect, our law-making is an effort at self-deception, and mutual deception, by means of professedly high purposes, or the soaring morality of our statutes. By law alone, we are proclaiming our exalted morality, hiding thus our personal evasion of individual duty and our downright moral limpness.

The people see this, and hence their contempt for this kind of laws; and from this, it is of course an easy step to the utter disregard of all law.

For the sake of illustration, I call attention to some present conditions:

First: *The Divorce Evil.*

Statistics prove not only an alarming increase in the number of divorces, but also show some very loose practices in the granting of them. There is a great outcry in the public prints, and much activity in the myriad of organizations all over our country devoted to the betterment of civic and moral conditions. All want this giant evil checked. What remedy is proposed?

Only one is suggested, or even considered:

More laws and stricter ones.

We find the Florida Federation of Women's Clubs preparing to descend upon the next legislature demanding new laws on this subject. The national organizations of women demand uniform marriage and divorce legislation in every state. Always the cry is: "New laws will cure every evil."

Yet, the present divorce laws have been on the statute books for two or three generations. When these laws were enacted, and until recent times, divorces were rare, and there was also a certain social stigma attached to divorces and to divorced persons generally.

Present conditions, then, are due not to the state or the lack of present laws, but to the changed moral character of our people.

Hence, in order to correct this evil, change is needed not in the law, but in the moral character of the people themselves.

Second: Distinguished popular leaders are constantly demanding laws to interfere with parental control of children, to regulate the manners and customs of the people, to check this immorality or that, and the statute books of the nation and of every state are loaded with legislative acts attempting to employ the force of law for preventing or minimizing what these leaders consider to be lapses from moral duty.

The mind of the people is thus becoming accustomed to look to various laws for the correction of evils relating to morality, manners and customs, and are thereby losing sight of the fundamental fact that sound morality is the result of, and must be based upon, individual effort and self-discipline.

Third: I hesitate to speak of prohibition, yet am constrained to say this:

The conclusive argument against the soundness of prohibitory laws as they now stand is that such laws are wrong in principle, and out of harmony with the true spirit of our American government.

The pursuit of happiness, our Declaration of Independence proclaims, is one of man's inalienable rights. That means, of course, that as long as one citizen respects the legal rights of others, he has the inalienable right to seek and find happiness according to his own tastes and wants. Neither his neighbor nor the government itself can lawfully deprive him of this right. His "pursuit of happiness" may be through channels which others may condemn as unwise and even immoral; but every individual must provide his own method. The law is powerless to interfere. In short, your neighbor, as well as yourself, has the inalienable right to pursue what you may think, feel or know to be *unhappiness*, and you are without right to compel him by law to follow your own recipe, or that of any group, party or organization for attaining happiness.

The folly and futility of seeking to control certain classes of social offenses have been made manifest by the history of mankind, and by the experience of preceding generations. Especially is this true of those offenses which, by reason of their nature, can be easily concealed.

Drunkenness, by means of alcoholic stimulants, is the abuse or perversion of a natural human appetite.

Likewise, sins of a sexual nature, which have existed throughout man's history, are the abuse or perversion of a natural desire or appetite. Since man appeared upon the earth, history shows that sexual offenses and likewise drunkenness, both being a perversion of a natural desire or appetite, have existed. There has never been a time in the chronicles of the race when wine and other intoxicants were not used, or when the sexual desire has not been a potent force in the life of human beings.

The seventh of the Ten Commandments, as recorded in the Old Testament, denounces and condemns adultery, and the New Testament is nowise different.

Likewise, we find, while it is no specific part of the Decalogue, that both the Old and the New Testament condemn, not the use of wine, but merely intemperance in its use.

Thus, these two classes of social sins, drunkenness and sexual immorality, are under direct scriptural condemnation. The abuse or perversion of the human appetite, not the indulgence of such propensity or desire in the right and temperate way, constitutes the sin against society and against Divine laws.

Scripture contains no authority for prohibition of the making or use of intoxicants.

No leader, prophet or king in the Old Testament ever enjoined absolute abstaining from all use of intoxicants as a beverage, or from all sexual indulgence. In the New Testament, there is no word or act recorded, showing that the Saviour, or any disciple, or Christian follower, ever even suggested the prohibition of the making or using of wine or any other intoxicant as a beverage. On the contrary, every candid reader of scripture must agree that the use of wine was, in biblical days, regarded as neither immoral nor dangerous to society, nor as opposing Divine law; and there is conclusive evidence that the Saviour Himself and His followers used wine.

Therefore, those who would make Christian doctrine the basis of prohibitory laws are wholly wrong. Those who claim that Christian people are under the duty as such to support prohibitory laws are simply importing or injecting into Christian doctrine what does not belong there.

They are false prophets, arrogating to themselves the right to add to, or improve upon, the teachings of the Saviour Himself. They are would-be arbiters of society, self-appointed and presumptuous to the last degree.

Beginning with the Mosaic Law, recognized by Christians as of Divine origin, organized society has, by statutes and ordinances, sought to suppress offenses of a sexual nature. Thus adultery and fornication are, and have ever been unlawful by secular authority, as well as by Divine law.

What has been the result? History and experience have shown that human society, centuries ago, realized that mere law is utterly impotent to suppress or control these easily hidden sins. Ages ago the conviction was forced upon society that making such acts unlawful and pronouncing penalties against the offenders were without effect.

Hence, the nations of the earth, seeing the folly of relying upon the force of law, long since realized that the only cure for social evils of this kind must consist of moral regeneration, the inculcation of sound principles, education, and training of the young in home, church and school—in short, the overcoming of this social disease through knowledge, intelligence, and the application of every sound moral force.

Today, the secular laws designed for the suppression of unlawful sexual acts or relations are, by common consent, regarded as a "dead letter." No huge appropriations of public money, no army of spies and investigators, no well-paid special agents are employed in suppressing such offenses, no organizations exist for that purpose, and we hear no newspaper clamor on the subject.

In proportion to the vast number of these offenses, how many prosecutions in courts of justice of such offenders are found? If you go to your own court records you will see that charges for adultery and kindred offenses are exceedingly rare.

How many persons, male or female, young or old, refrain from sinning in this respect because of a law or a statute or ordinance against it?

Would any one advocate an amendment of the Federal Constitution regulating sex relations, or prohibiting offenses of that character?

Yet, consider, for a moment, how much more physical degeneracy, moral atrophy and decay and social rottenness result from sexual impurity than have ever arisen from any use of alcoholic stimulants.

Do you ever reflect how much more vital it is to the safety and perpetuity of the human race to stop or minimize this class of offenses, this source of race destruction, than it is to suppress or attempt to suppress the use of alcoholic stimulants?

The slightest thought, in comparing the evil results of the two, should teach us a lesson.

Does it not seem that mere statutes or even constitutions are utterly futile in coping with such evils which are so easily indulged and hidden, so difficult to be detected, and so impossible to control by secular law?

Has not civilized human society long ago thrown up its hands in despair, and acknowledged that no force except moral force is effective?

If the law and the constitution can suppress the use of alcohol, why would they not also avail against this other and far worse social evil?

Do we look to the law to purge society of sexual impurity, and does civilized society today rely upon the law in any degree in dealing with such vices?

Is any one deterred or prevented from offenses of this character through fear of arrest or prosecution?

Nothing but an educated and informed moral sense will ever be effectual as a cure. The process is slow requiring sustained effort, generation after generation, calling for all the power of the church, all of the serious, conscientious and patient effort of parental training, all of the influence for good of books, and the steady, never-ceasing fidelity of the teachers of successive generations — all striving together for creating and sustaining moral stamina, building the slow rising edifice of human character.

Ultimately, through these processes, humanity will learn and understand that good is always better than evil; that the human soul will develop and grow in grace through bodily cleanliness and decency; that man may only separate himself and rise above the brute creation by self-discipline, which will enable him to throw off the besetting temptation that would drag him down to gluttony, drunkenness and sexual sin. Long experience has amply shown that no man keeps aloof from social sins of this character because he fears secular law. Unless he has in his bosom that abhorrence of the evil, and that power of will to abstain from it, he must fall.

For these reasons, and wishing to trespass no further upon your time, I believe it the duty of the lawyers of our country to become instructors of the people as to the purpose, limitations and proper functions of secular law, as distinguished from religion and ethics.

There is danger that this distinction may be overlooked, to the great injury of our institutions. Evidence accumulates that even our

higher courts have become more or less affected with that confusion of ideas which leads to a misconception of the true function of secular law.

In the Supreme Court of West Virginia, a judgment enforcing a special assessment for public improvements was affirmed upon the distinct ground that it was the moral duty of the owner of the property to pay such tax; and this decision has been cited with approval by the Supreme Court of Florida.

We are suffering from a multiplication of laws which have no place in the proper domain of law, and I know of only one consolation in the troubles we are thus enduring and that is that the Romans were afflicted in the same manner, as is shown by the following quotation from a Latin author:

"Ut olim vitiis sic nunc legibus laboramus."

Which, for the benefit of those who have forgotten their Latin, means that we are now troubled and burdened with laws as intolerable as the vices and offenses from which we formerly suffered.

Law and Its Enforcement

By HON. JAMES B. WHITFIELD

Justice, Supreme Court of Florida

Constitutional government is designed to promote the general welfare by defining and enforcing the individual and relative rights of the members of the human race. Limitations upon governmental authority are to secure individual rights. Restraints upon individual rights are to conserve the relative rights of all. The welfare of all being the ultimate paramount objective, regulation of individual rights by public authority is essential. But such regulations should extend no further than is necessary for the common good. Individual rights to life, liberty and property are subjects to deprivation or restraint by law only in the manner and to the extent that is requisite to maintain the relative rights of all.

In our system the limits of governmental authority and the paramount rights of individuals are fixed by the Federal and State Constitutions. Within the limitations prescribed, statutory enactments define rights and remedies; but the great body of the law is imbedded in the principles of the common law, as developed by the courts, not in conflict with organic or statutory law.

Rules of conduct without authority to enforce them would be useless. Mere authority to promulgate laws without power to execute them would not be government. To meet this requirement, our organic system provides a law-enforcing as well as a lawmaking power. In order to secure efficiency and to prevent abuses, the powers of government are separated into departments that are subject only to the paramount law and are designed to be independent each within its sphere, but to coordinate in attaining effective and impartial regulations promotive of organized and individual welfare. To the law-making power is delegated authority to prescribe rules regulating human rights and conduct, within the limitations fixed by the people themselves in their written organic law, which is the chart of their individual pledges of mutual restraint and of defined authority to their governing agencies.

To the law-interpreting and executing departments are assigned powers that vitalize and effectuate authorized regulations. Prescribed rules *duly applied* by those in authority constitute the essence of gov-

ernment regulated by law. The imperfections of human nature appear in laws and in their enforcement. But the guiding star in law enforcement as in all intellectual and material progress, is the desire to improve and elevate human efforts under Divine forbearance to attain an enlightened civilization of high ideals and inspirations.

Whether a law is necessary or expedient for governmental purposes, is for the enacting power to determine. Whether the law is valid as applied to concrete cases is determined by the courts.

Defects in the making of laws deter progress; but the application or enforcement of laws in particular instances affords security or causes injury accordingly as it is properly or improperly done. The elements of personal equation and environment enter largely into the enforcement of laws. Salutory rules are of little benefit if they are inefficiently applied. The usefulness of laws depends not so much upon the perfection of their provisions as upon their effective enforcement by competent, faithful officials. An imperfect or invalid law results often from a misapprehension of the import of language as used, as may be regarded as an inadvertence; but a valid law unlawfully or improperly applied may be a reproach upon the State, a reflection on the officers and a humiliation to the people who select the officers. To enforce a valid law by unlawful means is as incompatible with right as is a deliberate failure to properly enforce a valid law. The chief duty of courts and of counsel is to take care that valid laws be legally enforced.

While the executive officers direct the execution of laws, through administrative agencies, where judicial questions are not involved, the enforcement of governmental regulations devolves largely upon the courts. With the assistance of counsel in adversary proceedings, courts determine the validity and the applicability of laws to particular facts in issue, and, through administrative agencies, enforce compliance with judgments adjudicating rights. Attorneys, as the trusted representatives of litigants, develop in pleadings the claims of adverse parties, whether public or private, to be determined by the courts. This responsibility devolving upon the courts and upon attorneys, who are officers of the court, demands a service of the highest character. Inefficiency, indolence or procrastination of courts or attorneys inevitably lead to losses by litigants and to discredit of the courts and counsel. Efficiency includes mentality, information, attention, fidelity and promptness. Inefficiency as well as a lack of integrity is an imposition upon if not a betrayal of litigants. Duty negligently

performed is duty violated. A delay in administering the law may result in a denial of justice.

The services of the Bench and the Bar are required in determining and maintaining rights that arise in every sphere of human life and effort. Such services imperatively require qualifications of the highest order of intelligence, learning, integrity and fidelity. When all others yield in greater or less degree to the clamors for sudden change or to passing excitements and impatience, the members of the bar should stand firmly for the impartial enforcement of existing law, and for the making of changes in government only by the safe processes of orderly procedure. Progress requires thoughtful, earnest effort. Careless or reckless action deters true progress. The judiciary must by patient, constant endeavor, maintain a standard of efficiency and fidelity that will inspire a firm confidence in the public mind that, should all other governmental agencies neglect or ignore organic rights and the eternal principles of impartial justice, yet the courts will maintain the lawful rights of all as required by organic law.

The legal profession has ground for pride in its record of duty well done. It should firmly resolve that its standards shall not be lowered and that the service it renders shall be both efficient and patriotic. With the advantages afforded by the recorded successes of those illustrious members of the profession who have preceded us, and with a lofty desire to faithfully do our part, let us proceed in performing the duties assigned to us by the conditions of life, feeling a deep sense of gratitude for the opportunity given to render service to our country and having a steadfast purpose by manly efforts to aid in the noble tasks of the development and enforcement of law.

American Institute of Accountants' Foundation

PRIZE COMPETITION

The American Institute of Accountants' Foundation offers prizes for the best papers upon the following subject:

THE PRINCIPLES WHICH SHOULD GOVERN THE DETERMINATION OF CAPITAL AND THE AMOUNTS AVAILABLE FOR DISTRIBUTION OF DIVIDENDS IN THE CASE OF CORPORATIONS, WITH SPECIAL REFERENCE TO THE SYSTEM OF CAPITAL STOCKS WITHOUT A PAR VALUE.

The following have consented to act as jurors in the contest:

JULIUS H. BARNES,
WESLEY C. MITCHELL,
ALBERT RATHBONE,
FREDERICK STRAUSS *and*
GEORGE O. MAY

Chairman, Committee on Administration of Endowment, American Institute of Accountants.

The amount of the prizes will be in the discretion of the jurors, subject, however, to the provision that the first prize shall not be less than \$1,000 nor more than \$2,500, and that other prizes shall not be less than \$250 nor more than \$750.

While it is contemplated that the winning paper will discuss adequately the various aspects of the question—legal, accounting, economic and financial—the jury will be empowered to make awards to papers in which any one phase of the question is in their judgment particularly well covered.

A prize will also be given to the best paper submitted by a member of the American Institute of Accountants.

The Institute will undertake to publish the winning paper and will also reserve the right to prior publication of all other papers.

Papers to be entered for the contest must be typewritten and identified by a nom de plume. A separate sealed envelope bearing on the outside the nom de plume and containing the name of the author should accompany the paper to be addressed to A. P. Richardson, secretary of the American Institute of Accountants' Foundation, 135 Cedar Street, New York.

Papers must be submitted not later than October 1, 1923.

The competition is open to everyone without restriction.

Letter from Hon. H. M. Daugherty, Attorney General of the United States

MARCH 19TH, 1923.

Hon. Armstead Brown, President, Florida State Bar Association, Miami, Florida:

DEAR MR. PRESIDENT: I am in receipt of your favor of the 12th inst., extending me a most courteous invitation on behalf of the Executive Committee of the Florida State Bar Association to be its guest and to deliver an address during its session. I thank you and the Executive Committee for your kind invitation. I regret it will be impossible for me to avail myself of the privilege of meeting you and your fellow members while I am in your state. Though I am improving in the healthful sunshine your state provides and also on account of the hospitality I constantly feel extended while in your midst, I am not yet strong enough to undertake a task such as is involved in the acceptance of your invitation. I am sorry to be deprived of the pleasure it would give me to meet you and your members personally, but my greatest disappointment is on account of the loss I must sustain in being deprived of the benefit it would be to me personally and officially to meet so many of my influential professional brothers.

The reputable lawyers of the country have given me most generously the greatest support I have received in the discharge of my duties as Attorney General of the United States. Without the help, the respect and the confidence of the lawyers of the United States no man can ever hope to succeed in discharging the duties required of the Attorney General.

I might go further and yet be entirely within truth and reason and say that the Government itself could not function successfully and to the extent necessary to be beneficial to the people without the co-operation of the lawyers of the country. As a class they stand for law and order, and as I said in my first address to the American Bar Association, delivered shortly after assuming the duties of Attorney General, I may appropriately repeat: Law and order must be observed. Civilization and law and order go hand in hand. This nation will abide on the rock of law enforcement or perish in the quicksand of lawlessness. The lawyers of the country, from the organization of the Government have stood for the preservation of life, liberty, and human and property rights according to the conception in the minds of the

fathers who founded the Union. The lawyer who seeks notoriety and reputation for trickery, technicality, contention, sharp practice, producing and perpetuating litigation, and aspires to thrive on account of his nuisance value is rapidly becoming extinct and would soon be a thing of the past if publicity were denied him.

Ours is not a political calling or profession. I mean a partisan political calling. It is in a broader sense a patriotic profession. We should sustain and aid the courts which constitute the cornerstone of liberty and justice.

All laws should be enforced against the minority as well as the majority; against the rich and the so-called poor, and everywhere in the land or upon the sea, wherever the courts shall hold that Governmental jurisdiction extends.

Every legal and constitutional act passed by Congress is enforceable in this country, and this is also true of every final decree of the courts. Stubborn refusal to obey the law may prevent universal and perfect enforcement for a short time, but with conscientious and determined effort opposition will be broken down and the law will be universally enforced and upheld.

Radicalism and taking the law into the hands of individuals or classes must always be, and will be, prevented in this country if individual liberty and security is to be vouchsafed to the citizens.

If we, as American citizens, are to enjoy the privileges so bountifully bestowed upon us, we must all alike discharge the duties and obligations which we owe to society and civilization as a condition precedent to such enjoyment.

I shall continue while Attorney General of the United States, and the Government of the United States will always continue while the Government exists to depend upon you and such men as you in the honorable profession which you have chosen, for the sustaining power and influence which guarantees the continuation of constitutional Government which now more than ever is necessary, and is now more than ever, by all intelligent peoples throughout the world, recognized as the ideal Government of God-fearing and God-recognizing people.

I thank you most sincerely and hope if an opportunity is afforded that my highest esteem and gratitude may be expressed to your members.

Yours sincerely,

H. M. DAUGHERTY,

Attorney General of the United States.

The American Law Institute, Its Organization and Purposes

By HON. JEFFERSON B. BROWNE

Justice of the Supreme Court of Florida

When I was asked to read a paper at this meeting of the State Bar Association, my first inclination was for the subject, "OUR VANISHING CONSTITUTIONS."

As I sought to develop my thesis, I recalled the incident of the man who offered an Express Agent a package containing Limburger, and was informed that the company accepted *perishable* but not *perished* goods.

I am afraid that the applicability of this incident, to my contemplated subject, is far too real to be comfortable to lovers of constitutional government, as it suggests "Our *Vanished*," instead of Our "*Vanishing*" Constitutions.

Four major causes are responsible for the substitution of government by popular will, passion, fanaticism and prejudice, for orderly government limited restrained and controlled by written constitutions: The Civil War; the radical amendments to the Constitution of the United States beginning with the 14th; the World War; and the doctrine of omnipotence and absolutism in the law-making branch of state governments. The latter doctrine is as old as despotism itself, but has been sugar-coated by the adoption of a term less than an hundred years old: The Police Power.

I apprehend that some of you are thinking that my concern for the future of constitutional government is unwarranted, or at least exaggerated. I wish that I could be rid of my convictions, and bring myself to believe that our governments are administered with the same regard to constitutional guarantees of personal liberty as they were prior to the Civil War. But when I find a doctrine, espoused by the people, acted upon by legislatures, approved by publicists, and sanctioned by the courts, that whatever popular fancy or popular prejudice demands may be written into law, and that constitutional restrictions and declarations in bills of rights are impotent to restrain them, I have no hesitancy in saying that we have substituted for constitutionally restrained legislation the dictatorship of the proletariat.

Glancing over history, I see the dictatorship of Alexander the Great, of Julius Caesar, of Napoleon, of Porfirio Diaz, and I see in their dominions a people happy and contented, and proud of their governments; nations where property rights were respected, and where the people enjoyed more personal liberty than we are allowed in our own country.

On the other hand, when I consider the dictatorship of the majority, I see the days of the Red Republic in France, where heads of men and women, old and young, prince and subject, priest and disciple, fell in the basket like autumnal leaves in the brooks of Vallombrosa; I see too the most appalling example of popular government unchecked and unrestrained by constitutional guarantees, in Bolshevik Russia.

More blood flowed in five years under the benevolent and benign government of the people, by the people in Russia, than was shed in all the Revolutions in Mexico during the dictatorship of Porfirio Diaz.

If to me be thrown the ancient Pistol's challenge: "Under which King, Bezonian?" I will not hesitate in my selection, but will choose a single despot to the despotism of the majority.

Hearken to the words of Mr. Justice Miller in *Loan Association v. Topeka*, 20 Wall. (U. S.) 655, on this subject:

"It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty, and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the *most democratic depository of power*, is after all but a *despotism*. It is true it is a despotism of the many, of the majority, if you choose to call it so, but it is none the less a despotism. It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness, under the unlimited dominion of others, whether it is not wiser that this power should be exercised by one man than by many."

But I hear you say, "what are the portents that we are threatened with the despotism of the many?" It is not an apprehension, but a conviction based upon a doctrine well grounded in our modern constitutional law. Public opinion, public fancy, public fanaticism, public morality, if you please, is the cornerstone upon which any law regulating personal liberty can be constructed, unmoved and unshaken by constitutional guarantees. This doctrine says, "It is within the power of

the legislature to pass any law regulating personal liberty that is in the interest of public health, public morals, public safety, comfort, welfare, convenience, happiness, peace and what not," and from that doctrine it follows that any law demanded by *public opinion* may be enacted and enforced—constitutional restrictions to the contrary notwithstanding.

The most fearless declaration upon this subject is that of the Supreme Court of Georgia in *Barbour v. The State*, 146 Ga. 667 :

"But neither ownership, nor property rights, nor possession will be permitted to hinder the operation of laws enacted for the public welfare. Man possesses no right under the laws or constitution, State or Federal, which is not subservient to the public welfare."

The abolutism that was exercised for ages in the despotisms of Europe, Asia, and Africa, our forefathers sought to curb and restrain by written constitutions, but the spirit of despotism, so dear to the governing class, became an obsession with the people when government was lodged in their hands, and they took the salutary doctrine, that for the protection of the public health, public morals and public safety, laws might be enacted that were not in conflict with constitutional guarantees, and extended it, so as to place such laws beyond constitutional restraint.

Mr. Justice Holmes, in *Noble State Bank v. Haskell*, said that this despotic power "may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare." This is no isolated statement. It is a solemn declaration of a doctrine concurred in by all the Justices of the Supreme Court of the United States, which the courts of all the states in the Union are following.

The fundamental principle, underlying, governing and controlling legislative action, is, that whenever the people acting through their legislatures, enact a law demanded by public opinion, they cannot be restrained by constitutional restrictions. The term "prevailing morality" is but another name for "prevailing public opinion."

One of our accepted governmental maxims is, that "The voice of the people is the voice of God," and as the voice of God is always on the side of morality, the voice of the people must always be "the prevailing public morality."

We have then the doctrine ineradicably planted in our system of government, that laws need only to be responsive to public opinion to be beyond the control of constitutional limitations.

The fast-growing desire to destroy Constitutional Government is strongly manifested by the advocacy of an amendment to the Constitution of the United States providing that laws enacted in violation of it shall be enforced, notwithstanding the solemn decision by a majority of the Justices of a court of last resort, that it is unconstitutional.

This movement is a first step toward taking from the courts the power to declare a Legislative act unconstitutional. That this is no idle fear I need only recall that last night, that great leader of the people—Mr. William Jennings Bryan—advocated this change. It is true the proposal now advocated is, that an act shall not be declared unconstitutional by a majority of one only. But why one? Why by two-thirds, or by a unanimous decision? Why lodge such power in the courts at all? The present agitation is but a renewal of the opposition that broke out when Mr. Chief Justice Marshall laid down the doctrine, that thus far has preserved our Constitutional Republic, that courts are vested with power to pass upon the constitutionality of Legislative acts. Mr. Thomas Jefferson opposed it, and so did Spencer Rowan, Niles, and other great publicists; Andrew Jackson also thundered against it.

Those of us who venerate the Constitution supposed the controversy was settled, but we are justly alarmed at this new manifestation of radicalism.

The spirit of restiveness under constitutional restraint on Legislative action; the opposition to any doctrine that requires of Legislators obedience to the highest law of the land, will not rest content with a mere check on the courts, but will continue the fight to establish an unrestrained and untrammelled democracy upon the requirements of our constitutional republic.

The scope of this paper precludes the discussion of all the causes I have enumerated as effecting the rape of our constitutions, but before presenting my main subject, I will advert to one—the effect of the World War on constitutional government.

Many writers have sought to point out the mistakes of the Kaiser, which, in their opinion, caused the defeat of the central powers. I shall add my contribution to this harmless speculation.

Assuming that the entry of the United States into the war decided the contest in favor of the allies, the great mistake that the Kaiser made, was in assuming that the United States was a constitutionally governed nation, and that the people would not permit the constitution to be suspended for the sake of entering the war. He knew that without doing violence to our constitution—without in effect

holding it in suspension and inoperative during the period of the war—that we could not mobilize an enormous army, could not lend billions of dollars to foreign nations to finance their wars, could not send conscripted men out of the country to engage in a foreign war, and therefore it mattered not what indignities or wrongs were inflicted upon our people and our property, that we could not make effective war against him. To his surprise and to the surprise of many thoughtful people in the United States, we suspended for the period of the war every part of the constitution except that which gives Congress the power “to declare war,” and “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers,” notwithstanding that splendid declaration by Mr. Justice Davis, to this effect:

“The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism.” 4 Wall. 2.

Another doctrine subversive of our federal constitution is, that when the President and the Senate enter into a treaty with a foreign nation, any laws may be passed to carry the treaty into effect, even if such laws are not within the powers delegated to Congress by the constitution, or are destructive of rights and powers reserved to the states.

This doctrine was announced in the case of *Missouri v. Holland*, 252 United States 416, over the dissent of Mr. Justice Van Devanter and Mr. Justice Pitney, in upholding The Migratory Bird Act.

Prior to the treaty of December 8, 1916, between Great Britain and the United States, Congress enacted a migratory bird law that was held to be unconstitutional by the inferior federal courts, upon the ground that the title to wild game within the territorial limits of a state were owned by the state in its sovereign capacity, for the benefit of the people. That is the holding of the Supreme Court of Florida, and it is upon that doctrine that all state game laws are upheld. *Harper v. Galloway*, 58 Fla. 255.

After these decisions holding the migratory game law unconstitutional, the treaty between Great Britain and the United States was entered into, and straightway what was unconstitutional before, became constitutional.

We now have this situation: state game laws are held to be constitutional because the title to wild game is in the state for the use and benefit of the people, and federal game laws are upheld because this doctrine is not accepted by the Supreme Court of the United States. That is the unavoidable result of the decision in *Missouri v. Holland*, because if the title to game birds is in the state, it can not be divested of its title by a treaty between the United States and any other power, any more than the state could be divested of its title in any other property. Will any one contend that the Federal government by a treaty could give the portion of the Everglades owned by the State of Florida, to Great Britain in exchange for the Bahama Islands, without paying the state for its property? If not, then the United States cannot by a treaty take from the state its absolute control over the wild game within its borders, to which the state has title.

It is palpable, therefore, that when the United States Supreme Court held that Congress by reason of a treaty could assert control of and dominion over wild game within our territorial limits, it rejects the state's claim of title. And so we have this anomalous condition in our constitutional law, that state game laws are constitutional because the title to wild game *is in the state*, and federal game laws are constitutional, because the title to wild game *is not in the state*.

Under the doctrine of *Missouri v. Holland*, there seems to be no limit to the power of Congress to enact laws on any subject by virtue of the treaty-making power. Under it we could enter into a treaty with Great Britain, that in all controversies affecting the life, liberty or property of British subjects residing in the United States, the federal courts shall have exclusive jurisdiction, and if a British subject's property is stolen, or he is guilty of larceny, the jurisdiction of the state to try him would be ousted.

The unstimulated imagination is incapable of comprehending the multitude of laws that may be enacted by Congress, that are beyond the powers delegated to it by the constitution, which encroach upon the exclusive power of the states, merely by entering into treaties with foreign nations on those subjects.

This is rather a long introduction to the subject to which I desire to invite your attention, but I thought this much was due, to justify the assertion I made at the opening of this paper, that the title, "*Our Vanished Constitutions*" would more aptly describe the condition of constitutional law at this time than "*Our Vanishing Constitutions*."

Believing as I do that government by public opinion has already supplanted constitutional government, the discussion of this subject, while interesting, seems to serve no useful purpose. I have, however, found a subject that I regard as most important; one that the aroused sentiment of the bench and bar can make effective.

I have taken as my subject, "THE AMERICAN LAW INSTITUTE; its organization and purposes."

On February 23d a meeting was held for the purpose of organizing The American Law Institute, which proposes to do the greatest piece of constructive law work that has ever been undertaken *by a people*. If the work of the Institute is to be a success, and its great purpose achieved, it must be through an aroused sentiment of the bench and bar of the country.

That is the task that I have set for myself today in Florida.

The origin of this movement was an invitation to about twenty persons, by the Association of American Law Schools, through its committee on the establishment of a Juristic Center, who met on May 10th, 1922, and appointed a Committee on the Establishment of a Permanent Organization for the Improvement of the Law. This committee was composed of thirty-nine distinguished members of the bar, with Mr. Elihu Root, Chairman, Mr. George W. Wickersham, Vice-chairman, and Mr. William Draper Lewis, Secretary. On the committee were such men as Charles C. Burlingham, Frederick R. Coudert, William D. Guthrie, John G. Milburn, Roscoe Pound, John H. Wigmore and Samuel Williston.

After diligent and assiduous work, they prepared a very full report, and invited as a body to receive and act upon it, "the Chief Justice of the United States and the Associate Justices of the Supreme Court, the senior Federal Judge of each of the Federal Circuit Courts of Appeals, the Attorney General and the Solicitor General of the United States, the Chief Justice of the highest court of each state, the president and the ex-presidents of The American Bar Association and the members of its executive committee and general council, the president of each state bar association, the dean of each school belonging to the Association of American Law Schools, the president of each of the learned legal societies referred to in this report, the chairman or senior member of the Commissioners on Uniform State Laws in each State, the president of the National Conference of Commissioners on Uniform State Laws, and between one and two hundred other persons selected because of their knowledge and high professional standing and

their known interest in constructive work for the improvement of the law."

Mr. Elihu Root was made permanent Chairman of the meeting, and stated its purpose. Incidentally, I may say that at the close of the meeting Mr. Root said that he had been at the bar for fifty-six years, and never had he seen so many distinguished members of the American Bar assembled together.

I studied the report of the Committee for some days before attending the meeting, and I, like every one else who was there, was impressed with its stupendous purpose.

The entire day was spent in organizing the Institute, which is to be incorporated under the laws of the District of Columbia and managed by a council of twenty-one members, who shall have power to increase the membership, but not beyond thirty-one. As the Institute is to be a permanent organization, this provision enables the council to avail itself of the advice of new men who shall come to the front in the future, as great jurisconsults.

Its dominant purpose is,

"The Restatement of the Common Law."

On the subject of the perpetuity of the Institute, the Report said:

"Furthermore, as the conditions of life are never static, law, which is the expression of those conditions, to fulfill the functions of its existence must be a body of rules continuously subject to modification and change. Long before it would be possible to complete a restatement of all the principal topics of the law, the topics first completed might need in one direction expansion, in another modification, in another perhaps positive change. As we conceive it, the work of the American Law Institute which we propose is not like that of those who build a house. There will never be a time when the work is done and its results labelled 'A Complete Restatement of the Law.' The work of restating the law is rather like that of adapting a building to the everchanging needs of those who dwell therein. Such a task, by the very definition of its object, is continuous."

It will be impossible for me in the scope of this paper to do more than give a brief outline of the plan and purpose of the Institute.

It means so much, not only to lawyers and to the people of the United States, but to the preservation of our courts and our judicial system, that I recommend that the State Bar Association get from Mr. William Draper Lewis, 3400 Chestnut Street, Philadelphia, as

many copies of the report as are available, and circulate them among our members.

Of the confusion, uncertainty and complexity of the law, I assume that there is no dispute.

We have the Supreme Court of the United States publishing two or three volumes of reports every year. We have the reports of the Circuit Courts of Appeal, of the Federal District Courts, the Interstate Commerce Commission, the Commerce Court, the Supreme Court of the District of Columbia, and the courts of last resort in forty-eight states, which publish several hundred reports annually. Besides these, some states have intermediate appellate courts which also publish reports.

In 1917 a computation showed that there were 17,000 volumes of American reports. Of this, the Committee said:

"Furthermore to this monstrous and ever-increasing record of judicial precedent is being added each year not only the record of the opinions of the chief law officers of each state on questions of public law, but also the decisions of public service commissions and other administrative boards."

Sir John Salmond, a distinguished Australian lawyer, in an address before the New York Bar Association, thus described the situation:

"In England in the old days such literature was a scanty rivulet. In England and her Colonies it has swollen in modern times to a stately stream. But in America it has become a raging torrent fed by hundreds of tributaries."

But the courts do not confine their search for authority to this "raging torrent" of American reports, and resort is frequently had to English cases. To what an extent this is done, the committee's report says:

"In seven volumes reporting the decisions of the New York Court of Appeals between January, 1919, and October, 1921, the court cites 207 English cases as against 238 Massachusetts cases, 73 Illinois cases, and smaller numbers from other states."

Against the 17,000 volumes of American reports that have been published up to 1917, there were only 7,000 volumes of British reports. Ours cover a little more than a century, while the British reports cover a period five times as long.

I doubt if there is a contested question that comes before the courts for adjudication, that decisions cannot be found on both sides. Even laymen know this, and much of the disregard for law and lack

of respect for courts, is due to their knowledge of the uncertainty of the law.

This confusion in the law is growing more confounded, its complexity more involved and its uncertainty more chaotic. Upon this point the committee reported :

"Our investigation shows that among the causes of the law's uncertainty are: lack of agreement among the members of the legal profession on the fundamental principles of the common law, lack of precisions in the use of legal terms, conflicting and badly drawn statutory provisions, attempts to distinguish between two cases where the facts present no distinction in the legal principle applicable, the great volume of recorded decisions, the ignorance of judges and lawyers and the number and nature of novel legal cases. We also find that among the causes of complexity are, the complexity of the conditions of life, the lack of systematic development of the law, and the unnecessary multiplication of administrative provisions.

"All these causes of the law's uncertainty would continue to exist were the Federal Constitution repealed and the United States made one state. The fact, however, that the nation is composed of forty-eight states, each of which as well as the Federal Government is an independent source of law, means that the law on any subject in any one jurisdiction may differ from the law of one or more or all of the other jurisdictions. These variations in law are themselves a potent cause of uncertainty and complexity, and because of this and for other reasons do much injury, not only where transactions are carried on in two or more states, but also where transactions are carried on wholly within one state."

I quote from the address of Mr. Root at the opening of the meeting in Washington :

"Today our authorities are always in conflict. Where we find one court interpreting a given statute in one way, we will find another which takes the opposite view just as strongly. Our system of laws has become so vast and complicated it is almost impossible to make a competent investigation. In the five years, which ended in 1914, 62,000 statutes were passed by Congress and the Legislatures. In the same time there were 65,000 decisions handed down by the courts relative to them."

Having brought to your attention the deplorable condition of our law, I would like to arouse in you such interest in its reformation as is necessary to produce that result. Upon this point the committee said :

"In our opinion the most important task that the bar can undertake is to reduce the amount of the uncertainty and complexity of the law. It is essential if an adequate administration of justice is to be had that lawyers awaken to the extent to which the law should be and may be simplified and clarified."

The work to be done by the Institute will be laborious, intense, scientific, continuous. The report states:

"As previously explained, it is not practicable to tell how long it will take to cover all the possible topics into which the law may be divided by a restatement such as we have in view. It may probably be unwise to attempt a restatement of some portions of the law for many years, if at all. The Institute is an organization to operate a new force working towards the clarification, simplification and adaptation of the law to present needs. Its method of operation will be the putting forth from time to time of restatements of parts of the law."

It is not contemplated that the Institute will attempt, at once, a restatement of the law upon all subjects.

The committee recommended these three subjects as worthy of the first attention of the Institute:

"The Conflict of Laws (the entire subject if possible), Torts (dealing perhaps first with negligence), and Business Corporations. They believe that all of these subjects are in great need of that clarification and improvement which it is possible for a restatement such as we have in mind to produce, while the character of the topics is sufficiently diverse to raise most of the problems connected with a restatement of the substantive private law."

How the work is to be done can best be given in the language of the report:

"Applying the ideas just expressed, if the Institute being established desires to undertake the three subjects suggested in the preceding section of this report, it will be necessary for the Council to select three committees of experts, one on each subject, and also three reporters, with possibly one or more assistant reporters. The size of a committee of experts will depend somewhat on the subject and also somewhat on the number of suitable persons available. We believe, however, that experience will probably show that these committees should be composed of at least five but not more than ten persons. There should also be appointed a committee on the classification of the Law and Legal Terminology. We think that it will be an advantage if this committee is in part composed of those selected to act on the committees for the re-

statement of the law of torts, business corporations and conflict of laws.

"As soon as a reporter is chosen he should, under the general direction of the committee for the topic, assemble the authorities on the subject, and complete a tentative draft of all or a part of the restatement in the form previously suggested. It will then be the duty of the committee to discuss and amend the draft, the reporter being always expected to carry out any amendments and directions adopted by the committee and to submit further tentative drafts until the committee is satisfied with the work and ready to report it to the Council.

"During this process the various tentative drafts as prepared by the committee should be printed and distributed for suggestions and criticisms. Though the distribution should not be confined to members of the Institute, each draft as printed should be sent to every member.

"It is important that the work of the experts, before being adopted by the Institute, should be submitted to a group sufficiently large to insure its criticism from the background of varied experience, as well as to insure that wide and continued interest in the work by the leaders of professional opinion in the different parts of the country which is necessary if the desired results from the restatement are to be attained. Therefore, the Council on receiving the draft from the committee of experts should submit it for full discussion, either to a meeting of the members of the Institute, or to the members for their several criticisms and expressions of opinion, or both."

The last sentence was changed by the By-laws so that the final draft by the council is not to be adopted and published as an official publication of the Institute until it is approved at a meeting of the members.

After a very full discussion of the report of the committee, proposed Articles of Incorporation and By-laws were adopted.

The name of the organization is to be THE AMERICAN LAW INSTITUTE. Its objects shall be "to promote the clarification and simplification of the law and its better adaptation to social needs; to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work."

The members of the council chosen at the meeting were Elihu Root, George W. Wickersham, Judge Learned Hand, Victor Morawetz, John G. Milburn, George W. Murray, Harlan F. Stone, Benjamin N. Cardozo, John W. Davis, William Draper Lewis,

George E. Alter, Alexander C. King, A. J. Montague, E. N. Parker, J. P. Hall, William B. Hale, Edward J. McCutcheon, Arthur P. Rugg, Samuel Williston, Cordenio A. Severance and Herbert S. Hadley.

At the first meeting of the council the members divided themselves into three classes, seven to serve until December 31, 1927; seven to serve until December 31, 1929, and seven until December 31, 1932. As the term of each councillor expires, a councillor to serve for nine years shall be chosen in his place by the members of the Institute.

What I have read to you from the report, as to the method in which the work of restating the law shall be done, may be thus briefly stated: the reporters will assemble the authorities on the subject and complete a tentative draft of the Restatement which will then be considered by the committee of experts, to be composed of at least five and not more than ten persons. After they have revised it, it will be sent back to the reporters to prepare another tentative draft, in accordance with the discretion of the committee. The various tentative drafts will be printed and distributed for suggestions and criticisms; the distribution not to be confined to members of the Institute, but will also be sent to other distinguished members of the profession for review and criticism. These reviews and criticisms together with the tentative drafts will then be submitted to the council, who will prepare the final draft for submission to a meeting of the members of the Institute for adoption. At this meeting the final draft may be adopted as submitted, or it may be amended and adopted as amended.

A Restatement of the law that has gone through these crucibles, should come out pure gold, and he will be a bold man who will undertake to question it. It will be like some tender Second Lieutenant, pointing out where Marshal Foch erred as a tactician in his campaign against the Central Powers.

Mr. Root explained that this restatement is not to be taken as absolutely conclusive of the law upon a subject, but is to be accepted and applied by the courts as *prima facie* the law, and upon any one who contended against it would be placed the burden of disproving and discrediting it; not by citation of authorities, but by a demonstration based upon fundamentals that would be so overwhelming and convincing, as to demonstrate the fallacy of the restatement made by the Institute. A pretty big undertaking, in which, I surmise, few will succeed.

There are other details of the work in preparing the Restatement, that I have not time to present and discuss here. There is one feature, however, that I think I should advert to because the thought will suggest itself to members of this Association, and that is how a Restatement would be received in any jurisdiction where it is clearly contrary to previous decisions of the courts of that jurisdiction? The committee considered this situation and thought that perhaps it would be necessary under these circumstances to have the Restatement adopted by the legislature. It is believed, however, that where the Restatement is of a principle that has not been definitely passed upon in that jurisdiction, or upon which the court is not emphatically committed, the courts will adopt the work of the Institute. Only in exceptional cases, however, will there be any effort made to have any Restatement of the Law adopted by statutory enactment. The objections to that are, that the very flexibility of the common law which is what the Institute proposes to restate, would be destroyed by having it enacted into a statute. Upon this point the committee said:

"Where the law has been made statutory and the statute covers the facts of a case presented to the court, the court has no discretion; the judges must apply the statute even though they feel that the rule of law stated in the statute as applied to the facts does a real injustice. Where, however, the same statement of law is the clear result of prior decisions, but has not been made part of the statutory law, if the members of the court feel that the application of the law as found in prior cases will produce injustice, they frequently announce a modification or exception to the universality of the previously accepted statement of law; the modification or exception being based on those facts which made a real difference between the case before them and the ordinary case in which the rule of law as previously stated is applied."

This is the third attempt in the history of the world to restate existing law, to supersede all prior laws. The first was that of the Emperor Justinian. At the time of his reign the law of the Roman Empire consisted of two masses, known as the *jus vetus*, or the old law, and the *jus novum*, or the new law. The former had been built up very much as the English common law was developed, and it was this that made Justinian's work so stupendous. The Roman law at this time was in the same deplorable condition in which we find our American Law. It has been thus described:

"As regards the *jus vetus*, therefore, the judges and practitioners of Justinian's time had two terrible difficulties

to contend with—first, the bulk of the law, which made it impossible for any one to be sure that he possessed anything like the whole of the authorities bearing on the point in question, so that he was always liable to find his opponent quoting against him some authority for which he could not be prepared; and, secondly, the uncertainty of the law, there being a great many important points on which differing opinions of equal legal validity might be cited, so that the practising counsel could not advise, nor the judge decide, with any confidence that he was right, or that a superior court would uphold his view.”

Justinian accomplished gigantic undertaking, because back of his work was the force and power of an Empire. He could and did go so far as to decree that no treatises on the law or former decisions should ever “be cited in the future even by way of illustration.”

When Napoleon codified the laws of France, again an Empire was back of the plan to force its adoption.

Must we fail in a great and necessary work where Empires succeeded?

We boast of the greatness of the American people; we boast of our government; we claim that it is the grandest that was ever established by man, but, if we are unable to accomplish this great piece of constructive work—which I believe is absolutely necessary if we are to remain a government by law, and if our courts are to retain the confidence and respect of the people—how vain our pride, how empty our boast! If we fail, we fail because a democracy is impotent to accomplish so gigantic and stupendous an undertaking. We can control personal conduct, but we cannot establish a great system of jurisprudence. We can regulate the length of women’s skirts; the weeds that a man may smoke; the beverages that he may drink; the wild game that he may kill; the fish that he may catch, and other things of equal dignity and importance, but we cannot, like a Justinian or a Napoleon, build a magnificent structure for the administration of justice, and perform a monumental work essential to the preservation of our institutions.

Illustrative of the obsession that frequently possesses a person who has devoted much time and thought to one subject, hardly had the meeting been organized, when Ex-Governor Herbert S. Hadley of Missouri offered a resolution requiring the Institute to take up as its first work the restatement of the criminal law. After some discussion, it was defeated by a decisive majority.

Its advocates seemed to miss entirely the purpose of the organization of the Institute; their attitude being, that it was for the reformation of their fellow men, rather than the reformation of the common law.

The criminal law is largely, if not entirely, statutory. Where it needs reformation, however, is more in the restatement and reaffirmation of the principles of the constitution, which have been nibbled away by decisions of the courts in order to affirm convictions.

I know that it is popular to demand a more rigid enforcement of the criminal law, but my observation is that it is now being so rigidly enforced that constitutional guarantees and rules of criminal pleading are breaking down under the strain.

Governor Hadley drew a comparison between the number of homicides in the United States and in Great Britain and complained because there were only ten per cent of convictions in the United States. But he did not show how a restatement of the criminal law would help that situation.

Convictions and acquittals are the acts of juries drawn from the people and reflect public sentiment to a large degree. If there is anything wrong in the number of acquittals, it lies with the juries and not with the law.

Advocates of the resolution selected a few extraordinary cases that had been reversed by appellate courts, for what they called technicalities. In every instance, the reversals were the result of carelessness or inefficiency on the part of the prosecuting officers, and much of the bad law that we find in criminal cases is due to the tendency of the courts to excuse such neglect and inefficiency.

Governor Hadley's attitude was the natural result of his having been prosecuting attorney for two years, and Attorney General of Missouri for four years. The habit of thought acquired in these positions is not easily gotten rid of, and one is apt to carry with him for a long time, the obsession that there are too few convictions and too many reversals.

After more than thirty years of practice and six years on the bench, I have no hesitancy in saying that there are too many affirmances where prosecuting officers have been guilty of improper conduct in the trial of a case, and where trial courts have been too ready to sustain objections by the state attorney, and to overrule objections by the defendant. One cannot read many records in criminal cases without being impressed with the disproportion in this respect.

The English judges seem to be as deeply concerned for the defense as for the prosecution. I recall that in the trial of Dr. Crippin who was convicted and executed, the presiding judge, before submitting the case to the jury, called Dr. Crippin's attention to the fact that in his statement he had not testified to a certain phase of the case that might be helpful to him, and gave him the opportunity to go back upon the stand and supply this part of his defense. I cannot recall seeing similar aid given to an accused person in a court of this country.

I will give one illustration, to show how different is our practice in the matter of protecting the rights of a person being tried on a criminal charge. The trial judge is required to instruct the jury on the law applicable to the case. Justice requires that he instruct them on *every essential element* of the crime.

An essential element of the crime of larceny is that the taking must be "without the consent of the owner." A charge to a jury that omits this element fails to instruct the jury on "all the essential elements of the law." Yet where the court gives an instruction that omits this element, the ignorant prisoner is met with this rule: "If the defendant desired a fuller charge upon the point, he should have called the trial court's attention to the omission and have prepared and requested the charge desired."

If the accused is ignorant of the law and of his rights—a negro, perhaps, as the people of that race comprise the greater part of those charged with crime in the Southern States—he has no redress in an appellate court, where this rule prevails.

In any jurisdiction where such is the law, a person on trial does not have that "fair and impartial trial" guaranteed him by the constitution.

Such a doctrine is monstrous, and yet it seems to prevail in those jurisdictions where affirmances of convictions are regarded as of greater importance than the preservation of constitutional rights.

The constant criticism of the courts because juries do not convict, and because appellate courts reverse convictions where flagrant errors are committed on the trial, is not conducive to that respect for the courts, which is particularly necessary in a government such as ours, if we are not to fall into anarchy.

While we expect politicians, sanctimonious reformers and "holier-than-thous" to criticize the courts unfairly, it is a disappointment when we find a representative of the better school of journalism joining in the hue and cry.

In its issue of January 15th of this year, a newspaper in this city that is generally conservative and usually right, published an editorial on "Contrasts in Justice," in which it sought to compare justice, as administered by the courts in England and in the United States, to the disparagement of the latter.

It rather accords with the spirit of the times to be so engrossed with the shortcomings of others, as to lose sight of one's own errors.

The newspaper in question said it was its duty to call attention to what it considered the lack of justice in the courts. It was unmindful, however, of its own lack of justice in its unfair criticism. The injustice of the editorial consisted in drawing a comparison between the work of the courts in the city of London and the work of the courts in our state. It lost sight or was unmindful of this difference, that in the city of London the courts are continuously in session, while ours are held over a wide area, in sparsely settled territory, and often in several counties.

The editorial compared the prompt trial, conviction and execution of Mrs. Thompson and Bywaters, with the trial of Mrs. Grace Howell that originated in this Circuit. The court that tried Mrs. Thompson and Bywaters tries criminal cases only while the courts that tried Mrs. Howell hold sessions in several counties, and their dockets are congested with civil cases in law and in equity.

If we compare the work of the courts of London with those of New York city, we will find that the disparity is not so great, notwithstanding that the number of arrests in New York exceed those in London by something more than ten to one, producing a congestion there that sometimes makes the trial of causes less expeditious than in London.

Nevertheless, under District Attorney Banton's administration in New York city, there have been several capital cases disposed of in the last two years as expeditiously as the Thompson-Bywaters case.

A great difference between the criminal jurisprudence of England and that of the States of the United States, that makes for speedier trials in the former, is that the trial judges are given more power and discretion in controlling the introduction of testimony and charging juries on the facts. Under our system the power of a trial judge is limited. The founders of our government made this distinction and thought it was wise. They did it after close and intensive study of the English system, and it is not for me to say whether it is best or not,

under our system of selecting judges. Some of the considerations that moved our forefathers are no doubt these.

The trial judges in England are appointed for life. They receive salaries from five to ten times as great as those paid to circuit judges in Florida and in most of our states. The appointing power has thousands of lawyers from whom to select the judges; whereas in most of our circuits, few are available. The salaries in England are so great, the tenure of office so secure, and retirement privilege so alluring, as to tempt the greatest minds of the bar to accept positions on the bench.

We pay salaries less than the average lawyer can make from his practice; we limit the tenure of office to six years, and require judges to stand in a primary election, and even if he has no opposition, he must pay to the state about a month's salary for the privilege of serving the state for another six years. When the lethargy of age overtakes a judge, he has the choice of giving way to a younger man and barely existing until death relieves him, or remaining on the bench with his impaired faculties, as we make no provision for retirement with salary.

A comparison between methods in London and in the small circuits of Florida is in itself unjust; a comparison that does not take into consideration the factors I have enumerated is also unjust. A desire to see justice well administered by the courts is commendable, but justice and fairness in discussing court procedure would be a worthy example for the press and other critics to set.

If sometime, when in a more cheerful mood, I may entertain the hope that Constitutional Government will be restored by a determined stand against all attacks on that great charter of liberties, the most optimistic will not contend that it will come in the near future. Nor will the work of the American Law Institute in the Restatement of the Common Law be speedily accomplished.

Few of us may live to see either—a generation may pass away before they are accomplished. But let that not deter us in keeping up the fight until our hands fall lifeless by our sides, and our voices are silent in death, then

“Others I doubt not, if not we,
The issue of our toil shall see;
And (they forgotten and unknown)
Young children gather as their own
The harvest that the dead had sown.”

President's Annual Address

INDIVIDUALISM AND GOVERNMENT

By HON. ARMSTEAD BROWN

Individualism is defined by one of our standard encyclopedias as being "The theory of government according to which the good of the state consists in the wellbeing and free initiative of the component members."

There are many definitions of government, but, in its broad aspects, government may very well be defined as the chief organ of society, in any given country at any given time, by which the collective will is registered and enforced; and is, or ought to be, based upon some sort of social compact or consent of the governed, express or implied, by which each citizen agrees with every other citizen that each shall be governed by certain rules and methods for the general good.

Individualism is the antithesis of communism, but, properly understood, it is not synonymous, as many suppose, with egoism or selfishness, nor is antagonistic to government so long as government occupies its proper sphere. In fact, individualism and government go hand in hand, for in the social state the protection of government is indispensable to the maintenance and development of individualism.

Nor is individualism inconsistent with voluntary cooperation or combination with other individuals, be they few or many, for the accomplishment of any just and desirable purpose which does not invade the rights of other individuals, and it recognizes that there are many just and desirable purposes which cannot be accomplished in any other way.

Nor does individualism mean license to do absolutely as one pleases, but it means that free spirit of self-development which recognizes and respects the possession of the same right in other individuals and which thrives best in that broad and perfect liberty under law which was the dream of those great statesmen who founded this Republic and wrote its Constitution.

The consideration of this subject necessarily involves a consideration of the ever-present and ever-important question of what is the proper sphere of civil government, and how far it may rightfully and wisely go in regulating the conduct of the individual citizen or groups of citizens.

While a study of this great problem may necessitate some discussion of fundamental principles and abstract theories, it is not an academic question, but one which is highly practical, underlying, as it does, in one way or another, nearly every public question and nearly every bill which is introduced in, or statute which is enacted by, our legislatures and the congress. The subject is so vast that I will not have time to do more than outline the philosophy of individualism.

I am free to confess at the start that I incline to agree with the school of political economists and philosophers who believe that in considering the question of the basis of civil government, its proper sphere and permanency of operation, we must begin with the individual. The individual is primary; government, though vitally important, is secondary. The individual could exist, after a fashion, without either society or government, but neither society nor government could exist without the individual. Individuals form the raw material, or rather the essential units, out of which both society and government are created, and, quoting from the immortal Declaration of Independence, are "endowed by their Creator with certain unalienable rights." As the Master said of the Sabbath, so might we say of civil government, that "government was made for man and not man for government"; and we might add, quoting again from the great Declaration, "derives its just powers from the consent of the governed."

The idea that society is everything, and the individual nothing; that government or the State is an entity in and of itself for which man was created and of which he is but a means to an end, whether those ends be moral or immoral, right or wrong, is not founded upon fundamental principles. Not only must we begin with the individual, in the consideration of such questions, but we must also end with him, for it is for his development and protection that organized government exists. Governments do not make men and women, but men and women make governments, and, generally speaking, the character of the government of any country at any given time is but a reflection of the composite character of the citizens of such country. And yet, it is also true, that the kind of government a people set up, and the way they operate it, reacts upon the character of such people, and has a vital influence upon their progress and development either for good or ill.

The doctrine of individualism is founded upon the innate dignity of human nature. It recognizes that man is the supreme creation of the Infinite One, and that, as George Washington aptly said, there burns in the breast of each and every one a "spark of that celestial fire" which

raises man above the physical world about him, and gives to him a sublimity of hope, an infinite variety of possibilities and a splendor of outlook, which defies definition and constantly bursts the bonds of artificial limitations. Hence it is, that the great body of the laws of all governments, past and present, are largely negative in their prescriptions, merely pointing out a few things that the citizen must not do, but not attempting to outline for him the myriad and incalculable number of things which he shall or may be.

Man is potentially greater and more important than either his physical or political environment. Environment influences life, but it cannot create it. Environment is important, but not primarily important. We all know of instances of men born and reared in evil and adverse surroundings, who have risen superior to their environment, and who have sought and secured a new and higher condition of life elsewhere, or who have conquered and changed the conditions of life in their native locality. Not only so, but history is full of the instances of men who have not only changed and elevated their own environment at the time, but that of a whole nation as well, both for that day and for subsequent generations. Thus a man may veritably create for himself a new environment, and not only for himself, but for others. There is no calculating the worth and power of the individual soul. It has been well said that nearly every institution is but the lengthened shadow of some one man. Personality is, and always will be, a power of primary importance. Emerson was probably quite near the truth when he said that "the main enterprise of the world for splendor, for extent, is the upbuilding of a man."

Nearly all reforms originate with some particular individual, and the value of all external reforms and institutions must be measured by how far they do or do not minister to the development and upbuilding of the individual citizen. The free and proper development of the individual makes for variety, for distinct and refreshing personalities, which are essential to the charm and strength of a civilization. There is danger and monotony in a forced uniformity. The tendency toward uniformity seems to be in the air of recent years. A distinguished European, speaking several years ago to one of our college audiences, said: "That which most impresses one, coming from the old country to this new land, is the almost wearisome uniformity so dominant in this wonderful country of yours. A pronounced uniformity exists in all your educational institutions. One does not find that distinct indi-

viduality so well preserved in many of the ancient seats of learning beyond the water."

The aim of government should not be to produce uniformity of character or qualities among its citizenship, but to afford equality of opportunity—a fair chance—to every citizen for self-development, with "equal rights to all and special privileges to none." The real basis of government is mutual aid to self-development. The test of a civilization is the quality of its manhood and womanhood. If, by the mere writing of statutes and enactment of laws, we could produce a perfect citizenship, probably the problem would, ere this, have been settled, as we have some seventy thousand existing statutes in this land of ours already. But character is not produced by the mere writing of statutes, and coerced action loses its moral quality. Liberty is such a sacred thing, and so absolutely essential to the moral and spiritual growth of the individual, that, so long as it does not attempt to invade the liberty of others, it should be "handled with care," as it were, by the strong but sometimes crushing compulsion of human laws. "We are often wrong," wrote Victor Cousin, in substance, in his "Foundation of Law," "in trying to prevent (by force of law) some of the evils which God himself permits. Souls may be sometimes corrupted by an attempt to purify them by force. I ought to respect your liberty. I have not even always the right to hinder you from committing a fault. Liberty is so sacred that, even when it goes astray, it deserves up to a certain point to be managed * * * I ought to respect your body, inasmuch as it belongs to you, and inasmuch as it is the necessary instrument of your person. * * * I owe respect to your goods, for they are the product of your labor; I owe respect to your labor, which is your liberty itself in exercise. Respect for the rights of others is called justice; every violation of a right is an injustice. Every injustice is an encroachment upon our person * * * to retrench the least of our rights is to diminish our moral person, is at least, so far as that retrenchment goes, to abase us to the condition of a thing. * * * Justice, respect for the person in everything that constitutes the person, is the first duty of men toward his fellow men."

There is danger in overemphasizing the matter of environment, important as it is. To ever-emphasize such external conditions tends to make men lose sight of their personal accountability to the Almighty and to cast the blame for their sins and failures upon the government or the conditions existing in the society around them. The Scribes and Pharisees thought that they could build up a glorious religious and

social order by enforcing a uniform conformity to an elaborate system of rules and regulations founded upon the laws of the Old Testament, but greatly elaborated, and dealing necessarily with the outward life. The tendency of such a system toward hypocrisy was inevitable, neglecting as it did the inner spiritual life of the individual. It failed.

Moral codes, nor human laws alone, cannot save men. If you will reflect for a moment, you will acknowledge that most of the troubles or wrongs which have been inflicted upon your own life came not from defects in our laws or moral conditions, but from wrong thinking and wrong conduct, either in yourself or in other individuals, or both. "What is saving?" wrote Matthew Arnold, and then he answered it in these words: "Our institutions, says an American; the British Constitution, says an Englishman; the civilizing mission of France, says a Frenchman; but Plato and the Sages say: 'To love righteousness and to be convinced of the unprofitableness of inquiry.' Isaiah and the prophets said that what is saving is 'to order one's conversation aright, to cease to do evil and to delight in the law of the Eternal' * * * . Now the matters just enumerated do not come into the heads of the most of us, I suppose, when we are thinking of politics, but the philosophers and prophets maintain that these matters and not those things of which the heads of politicians are usually full, do really govern politics and save or destroy states. They save or destroy them by a silent inexorable fatality."

The importance of individualism increases the higher we ascend in the scale of rights involved. I might tolerate a statute prescribing the kind of plumbing that I shall use in constructing my dwelling, but a statute which prescribed the Church I should join or the religious doctrine that I must accept, would be intolerable, and, I am glad to say, in our country, unconstitutional also. And yet it was not always so even in our own country. It is hard for us now to realize that our forefathers, fleeing from religious persecution in the old country, were not long in setting up a system of religious persecution in this country. In Massachusetts, and other American colonies, particular observances of the Sabbath were enforced with heavy penalties and there were so many different invasions of religious liberty by the different colonies that time will not suffice to mention but one or two. In Virginia, a statute was adopted excluding all Quakers from the colony, and providing that if they came back for the second or third time the death penalty should be imposed. In Massachusetts, in the early days, no man was qualified to vote unless he was a member of the Congrega-

tional Church, and if he failed to pay his assessed dues to the Church, he was placed in stocks and the minister permitted to hold an hour-glass concentrating the rays of the sun upon his flesh for a certain number of minutes. Sunday laws were enforced with a rigor that would have made glad the heart of the ancient Pharisees. Those who were supposed to be witches were burned at the stake to the number of twenty, upon the supposed authority of a disjointed sentence somewhere in the Bible that I do not now recall. Instead of trying to make good men and good women and trusting them to make a good government, some of the churches endeavored to reverse this well-tested principle by trying first to make a good government according to their ideas of good government, and trust a good government to make a good people by the force and compulsion of human law.

One of the most inspiring chapters in history was the manly fight which Roger Williams made for the religious liberty of the individual in New England, and to his credit be it said that Thomas Jefferson, against bitter opposition, waged a similar fight along somewhat different lines in Virginia, and secured the passage of the famous "statute of religious liberty," which he considered one of the three greatest achievements of his life. In his "Notes on Virginia," Jefferson recited the various punishments for various religious offenses which were contained in the Virginia statutes, and then made some comments thereon from which I beg to quote a few sentences: "The error seems not sufficiently eradicated that the operations of the mind, as well as the acts of the body, are subject to the coercion of the laws. But our rulers can have no authority over such natural rights, only as we have submitted to them. The rights of conscience we will never submit, we could not submit, we are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say that there are twenty Gods or no God. It neither picks my pocket nor breaks my leg. It might be said his testimony in a court of justice cannot be relied on. Reject it then, and be the stigma on him. Constraint may make him worse by making him a hypocrite, but it will never make him a truer man. It may fix him obstinately in his errors but will not cure them. Reason and free inquiry are the only effectual agents against error * * *. It is error alone that needs the support of government. Truth can stand by itself. Subject opinion to coercion; whom will you make your inquisitors? Fallible men; men governed by bad passions, by private as well as public reasons? And

why subject it to coercion? To produce uniformity. But is uniformity of opinion desirable? No more than of face and stature. Introduce the bed of Procrustes then, and as there is danger that the large men may best the small, make us all of a size, by lopping the former and stretching the latter * * *. What has been the effect of coercion? To make half the world fools and the other half hypocrits * * *. Reason and persuasion are the only practicable instruments (in matters of religion). To make way for these, free inquiry must be indulged."

It was, indeed, strange that those who called themselves followers of Christ should have resorted to force to enforce their religious tenets. They should have been the last to fall into this error. When the Christ came to this world, the State was everything and the individual had very little consideration. The doctrine of individual rights and religious liberty was almost unknown. It might well be said with all reverence that Jesus discovered the individual. His supreme appeal was to the individual soul. He came to found his Kingdom in the hearts of men. He who conquers the heart rules the whole man. He emphasized the inner life of the spirit and sought the aid of no human government to enforce his commands or propagate his Gospel. He recognized the free agency of man and never once resorted to force or compulsion to get any men to accept his Gospel. His method of appeal assumed that an enforced religion was no religion at all. The world, and even the Church, was slow in coming to a realization of the great truth that religious belief is one of the matters that is entirely outside the proper sphere of human governments. The fight that Thomas Jefferson made in Virginia, and that Roger Williams had already made in Massachusetts and Rhode Island, was taken up by brave and courageous spirits in the other colonies, and when our forefathers came to write the Constitution of the United States they settled this question, which had wrought so much carnage and ruin for centuries, by embracing in that Constitution this historical language: "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof," etc.; which provision in the first of the ten amendments was afterward embodied in substance, and frequently in stronger language, in practically all of the state constitutions.

Turning, as briefly as may be, to the development of the theory of individualism as regards civil liberty in other fields, it might be noted that this theory had its vogue mainly during the latter part of the eighteenth and the first half of the nineteenth century, and was a natural reaction against the autocratic and oppressive and paternalistic

regime which had grown up during the middle ages, and which had its culmination, so far as our forefathers were conceived, during the reign of George III, in England. Under this paternalistic regime, personal liberty was unduly restricted. Individualism was dwarfed and the citizen was hardly free to think for himself. His goods were subject to arbitrary seizure, his house to arbitrary search, his person to imprisonment for debt. The few were booted and spurred to ride, the masses were bridled and ridden. As a side light on the state of affairs then obtaining, there is carved on a stone in one of the old cemeteries of England these lines:

"The law imprisons man or woman,
Who steals a goose from off the common,
But turns the greater culprit loose,
Who steals the common from the goose."

I might add that there be some who think these lines are still applicable in particular cases now and then. Just as the Reformation had asserted the religious rights of the individual, so, to my mind, it was the old Barons and their claims, who, enraged at the encroachments of monarchy and the oppressions of King John, and facing him at historic Runnymede and ringing from his reluctant hand his signature to Magna Charta, who gave the first real impetus to the political doctrine of individual rights. Thus religious and political freedom developed together. Here it was that the idea took root that the individual had certain sacred rights and that there was a limit to the exercise of governmental authority. Here also we find the first definite statement that the citizen should not be deprived of life, liberty, or property without due process of law. No doubt these old Barons were thinking more of putting a check to absolutism and paternalism than of laying the foundation of the subsequent development of individualism. It was from such conditions as these that the idea got rooted in the minds of men that government was something antagonistic to their individual interests, and so, when the colonists to America came to form our State and Federal constitutions, they were careful to enumerate all of the limitations of Magna Charta and a number of other things which government should not interfere with. There were some who came to regard government as a necessary evil—the less of it the better. In individual liberty, they believed that they had found the solvent of all social difficulties. They inclined to the purely negative idea of government and regarded it merely as a repressive agency to restrain interference with individual rights. The philosophy

of Jeremy Bentham—free and unrestrained competition and freedom of private contract—became the dominant industrial philosophy. They put the emphasis of law almost entirely upon individual right. The correlative of individual duty toward society and the government was all but ignored. This negative idea of government found frequent expression in the organic law of many of our states. For instance, we find a section in the Constitution of Alabama which has come down from former years, which reads as follows: "The sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and when the government assumes other functions, it is usurpation and oppression." It would require a very liberal construction, indeed, of this theory of government to uphold the existence of many of those positive exercises of State and Federal power, benevolent and ministrant in their nature, such as Agricultural Departments, Departments of Labor and Industry, of Commerce, of Child Welfare, of Education, etc. The number of departments, bureaus, and commissions, which have sprung up in the exercise of this positive or paternalistic side of governmental activities, have created such a horde of officeholders and such an enormous expense, with its accompanying burden upon the taxpayer, that it has already become a live and pressing question as to just how far the sphere of government should be extended in this direction.

Perhaps Thomas Jefferson was the ablest exponent of individualism in its best sense, and carried it as far, perhaps, as might be done with safety. While it would be an injustice to impute to him hostility to government itself, for it was, in his view, the most important of human necessities, yet it cannot be doubted that the animating principle of his political philosophy was individual liberty accompanied by a jealousy of all governmental power in whomsoever vested. This led him to oppose concentration of power and to favor the delegation of as little power as possible to government, for fear that it would be abused. Said he, on one occasion: "The way to have a good and safe government, is not to trust it all to one; but to divide it among the many, distributing to every one exactly the functions he is competent to. Let the National government be entrusted with the defense of the Nation, and the Foreign and Federal relations; the State government with civil rights, laws, police, and administration of what concerns the State generally; the counties with the local concerns of the counties, and each ward with the direct interests within itself. It is by dividing and subdividing these republics from the great National one down

through its subordinations until it ends in the administration of every man's farm and affairs by himself; by placing under everyone what his own eye may superintend; that all will be done for the best. What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating of cares and powers into one body, no matter whether of the autocrats of Russia or France or of the aristocrats of a Venetian Senate."

Verily, Jefferson was neither socialist nor paternalist. In his first inaugural address, Jefferson summed up his ideas of what our government should be, closing with these words: "Still one thing more, fellow citizens, * * * a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned." And another time he said: "The legitimate powers of government extend to such acts only as are injurious to others."

At a slightly later period in England, Buckle, author of that remarkable book, "History of Civilization in England," said: "Liberty is the one thing most essential to the right development of individuals and to the real grandeur of nations * * *. Liberty is not a means to an end, it is an end in itself. To secure it, to enlarge it, and to diffuse it, should be the main object of all social arrangements and all political contrivances, * * *. It is the foundation of all self-respect, and without it the great doctrine of moral responsibility would degenerate into a lie and a juggle. It is a sacred deposit and the love of it is a holy instinct engraven on our hearts."

Victor Cousin, of France, writing at about the same time, said: "Liberty does not consist of doing whatever we will, but what we have a right to do. What society represses is not liberty, but passion, license. Liberty is to be respected, provided it injure not the liberty of another. From the necessity of repressing springs the necessity of a constituted repressive force. That force should be adequate, impersonal, and disinterested—hence government. It is the right of self-defense transferred to a public force, * * * government is justice armed with force."

At about the same time, John C. Calhoun, speaking in the United States Senate, said: "Of the few nations who have been so fortunate as to adopt a wise constitution, still fewer have had the wisdom long to preserve one. It is harder to preserve than to obtain liberty. After years of prosperity, the tenure by which it is held is but too often for-

gotten." Contemporaneously with Jefferson, we find his great opponent, Hamilton, the Apostle of strong government, writing in the *Federalist* as follows: "In a government for durable liberty, not less regard must be paid to giving the Magistrate the proper dignity of authority to execute the laws with vigor, than to guard against encroachment upon the rights of the community, as too much power leads to despotism, too little leads to anarchism, and both eventually to the ruin of the people."

Von Humbolt, in his book on the "Sphere and Duties of Government," published in 1854, reached this conclusion: "It follows that from the proper sphere of government, we should eliminate all solicitude on the part of the state for the positive welfare of the citizens, and the state should not proceed a step further than is necessary for the mutual security of its citizens and protection against foreign enemies. For with no other object should it impose restrictions on freedom."

John C. Calhoun, in a speech in the Senate in 1848, said: "Society can no more exist without government than man without society. It is the political, then, which includes the social * * *. It is the one for which his Creator formed him, into which he is impelled irresistibly, and in which only his race can exist and all his faculties be fully developed. Such being the case, it follows that any, even the worst form of government, is better than anarchy, and that individual liberty or freedom must be subordinate to whatever power may be necessary to protect society against anarchy within or destruction from without; for the safety and wellbeing of society are as paramount to individual liberty as the safety and wellbeing of the race are to that of individuals; and in the same proportion the power necessary for the safety of society is paramount to individual liberty. On the contrary, government has no right to control individual liberty beyond what is necessary to the safety and wellbeing of society."

The great political economist, John Stuart Mill, gave his views on this subject in this language: "The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. The only purpose for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others. His own good, either physical or mental, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it would be better for himself to do so, because it would make him happier, because, in the opinion of others, it would be useful or even right. These

are good reasons for remonstrating with him, or reasoning with him, or persuading him, but not for compelling him or visiting him with any evil in case he does otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil to someone else. The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. *In the part which concerns himself, his independence is, of right, absolute. Over himself, over his own mind and body, the individual is sovereign.* If anyone does an act hurtful to others, there is a prima facie case for punishing him by law. There are also many positive acts for the benefit of others which he may rightfully be compelled to perform; such as to give evidence in a Court of Justice; to bear his share of common defense; or any other joint work necessary to the interest of the society of which he enjoys the protection * * *. In all things which regard the external relations of the individual, he is *de jure* amenable to those whose interests are concerned, and if need be, to society as their protector. But the only freedom which deserves the name is that of pursuing our own good in our own way so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it."

Former President Woodrow Wilson, in his work on "The State," said: "Society is an organic association of individuals for mutual aid. Mutual aid to what? To self-development. The hope of society lies in infinite individual variety, in the freest possible play of individual forces; only in that can be found that wealth of resource which constitutes civilization with all its appliances for satisfying human wants and mitigating human suffering, with all of its incitements to thought and spurs to action. * * *. The individual must be assured the best means, the fullest opportunities, for complete self-development, but the most indispensable conditions for self-development government alone can supply."

Further carrying out this thought, Mr. Wilson goes on to show that in order to insure this equality of opportunity, it is the duty and proper function of government to dominate and regulate monopolies and combinations which threaten the rights of the individual citizen, but he reaches the conclusion that the State's functions should cease where cooperation on the part of society to control combinations ceases to be imperative for the general good.

From the above quotations from profound thinkers, I think we may get much light on the subject under discussion, but we have also, no doubt, received the impression that most of them believed *that in*

order to secure adequate powers of government, the individual must surrender a large portion of his inherent natural rights. This theory is specifically combatted by some of the authorities above quoted, especially Jefferson, and it is also combatted by Sir William Blackstone in his Commentaries, and by Herbert Spencer, in his "Social Statics," and also by a political writer not so often quoted but perhaps as profound a thinker on such subjects as this country has produced, viz., Alexander H. Stephens, of Georgia, whose strength with the Southern people was so great that although he bitterly opposed secession, he was elected Vice-President of the Confederate States. On June 7, 1816, Thomas Jefferson wrote from "Monticello" that "our Legislators are not sufficiently apprised of the rightful limits of their power; *that their true office is to declare and enforce only our natural rights and duties, and to take none of them from us. No man has a natural right to commit aggression on the equal rights of others, and this is all from which the laws ought to restrain him; every man is under the natural duty of contributing to the necessities of society, and this is all the laws should enforce on him; and no man having a natural right to be the judge between him and another, it is his natural duty to submit to the umpirage of an impartial third. When the laws have declared and enforced all this, they have fulfilled their functions; and the idea is quite unfounded that on entering into society we give up any natural right.* The trial of every law by one of these texts would lessen much the labors of our legislators and lighten equally our municipal codes."

Quoting Blackstone, Herbert Spencer argued at length and with his usual ability in behalf of this position, his text being "Every man has the right to do whatever he wills, provided that in the doing thereof he infringes not the equal right of any other man." The same political doctrine is expressed by Alexander H. Stephens, in this language: "Many writers maintain that individuals, upon entering into society, give up or surrender a portion of their natural rights. This seems to be a manifest error. In forming single societies or states, men only enter into a compact with each other—a social compact—either express or implied, as before stated, *for their mutual protection in the enjoyment by each of all their natural rights. The chief object of all good governments, therefore, should be the protection of all the natural rights of their constituent members.* No person has any natural right wantonly to hurt or injure another. The object of government is to prevent and redress injuries of this sort; for, in a

state of nature, without the superior restraining power of government, the strong would viciously impose upon the weak. Wrongs upon rights could not be so efficiently prevented nor so adequately redressed. Upon entering into society, however, for the purpose of having their natural rights secured and protected, or probably redressed, the weak do not give up or surrender any portion of their priceless heritage in any government constituted and organized as it should be."

There is a great deal in the position taken by Jefferson, Stephens, and the others quoted. After all that Professor Giddings, in his "Democracy and Empire," and other political writers, may have said to the effect that "the individual is no longer the starting point of ethical systems," and that we must deal with "society in the mass," I cannot help but believe that Stephens and Jefferson and the great galaxy of individualists, such as Madison and others, who wrote our Constitution, were fundamentally right.

It is true that during the era when individualism had its fullest recognition in our country, there grew up outside of the law forces which tended to limit and restrict individual rights and equality of opportunity, such as monopolies and trusts and large combinations of capital and labor, and it became necessary for the strong arm of the government to intervene to protect the public from extortion and imposition. This caused many of our political thinkers to conclude that individualism was at an end, and that a system of state socialism was at hand. Not so, however. The practical political sagacity of our country was equal to the occasion and laws were devised for the dissolution of combinations in restraint of trade, the curbing of monopolies and the regulation of the rates and practices of public utilities dealing in the prime necessities of life, such as transportation, light, water, the telephone and the telegraph. The American people reached the conclusion that private ownership coupled with public supervision and regulation of all essential public utilities was, generally speaking at least, the best solution of the problem in that field and afforded to the individual that protection in the enjoyment of life, liberty, and the pursuit of happiness which, acting singly and alone, the individual was powerless to secure; and thus the solution was founded upon one of the prime principles of individualism. Whether the same principle should be extended to all large industrial combinations, of labor as well as capital, dealing with the production and distribution of the prime necessities of the life of the individual citizen, such as food and fuel, is one of the great problems now before this country. I have no doubt that the

political sagacity of our people, and of our statesmen, will prove equal to the occasion, and that these problems will be worked out with justice and fairness to these large cooperative organizations on the one hand and the general public, which means the individual citizen many times multiplied, on the other; and that this solution will also be entirely consistent with the fundamental principles of individualism.

It is true that the solution of such problem has involved a modification of the old theory of entire freedom of contract, because by reason of modern developments, it was found that the individual citizen, acting alone, was not on an equality in dealing with certain conditions, and certain large organizations or combinations which produced the necessities of life which he was compelled to have, or the transportation of which he was compelled to avail himself. He had to contract under duress, as it were. So, in order to preserve equality of opportunity and protect the individual citizen against those who were in a position to take undue advantage of him, the law stepped in and established equality by law. The usury laws, child labor laws, laws regulating the rates of public utilities, laws limiting the hours of service in certain hazardous occupations are instances of efforts in this direction. This system, fairly and properly administered, is not an invasion of individualism, but a protection of it. It might be said that our experience thus far has established the principle, *that it is the duty of government to see that its individual citizens, as far as is practicable, have equality of opportunity for self-development, and that when any individual or combination of individuals acquire the power to coerce the public—which means the average individual citizen—in any matter absolutely essential to the life or liberty of the individual or the public, such power shall be subject to governmental regulation.* This is, after all, only a protection of the citizen in his rights of life, liberty and the pursuit of happiness—a new application of an old principle.

In contending for this principle, it is not my intention to decry the formation of cooperative organizations. The wonderful power and advantage of cooperation in many fields of effort has been too well proven to admit of question. Like fire, cooperation, properly controlled, is a great servant of the public, but, like fire, when uncontrolled, it may become destructive and injurious to the public, and hence to the individual citizen. Time will not permit of discussion of methods or details, but suffice it to say that for the protection of the individual in the enjoyment of life, liberty, and property, the power

must reside somewhere to say to these great organizations, whether of capital or labor, "so far shalt thou go, and no further."

On the one hand, we have extreme individualists who cry constantly to government, "hands off," "laissez faire," who look upon every act of government with jealousy, and on the other hand, those who, with equal extremeness of view in the opposite direction, would have society fondly lean upon government for guidance and assistance in every affair of life. Somewhere between these two extremes, we shall, no doubt, find the safe middle ground which makes for true progress, without sacrificing either the valuable principle of cooperation, or the vital principle of individual liberty.

For the past half century there have been many statutes and decisions which have undoubtedly clipped the wings of individual freedom, but individualism is coming back and is again being recognized as the very keystone of the American system of government. Far be it from me to belittle the sphere and dignity of government. There are many valuable institutions which go to the making of our wonderful civilization, which, in spite of all its faults, is the best that the world has ever seen. Among such we might mention the family, the church, our educational institutions and public libraries, the various fraternal orders and associations for benevolent purposes, the cooperative organizations of both capital and labor, our free and enlightened press, our great systems of transportation and public highways, our various civic organizations including our Bar Associations and the like; but as our government is the paramount organ of our society that binds us all together, and to which all individuals and associations of individuals owe patriotic and enthusiastic allegiance, constituting as it does the one great cohesive and coordinating force which makes possible the continued existence of all these various agencies, promoting that splendid harmony of variety which is as the music of the spheres, it should be recognized as the most important of all agencies for our progress and happiness, the central sun of our social system.

I said a moment ago that individualism was again being recognized as fundamental in our American system. Our press is full of it. I might say it is again being recognized as fundamental in many other systems of government, particularly that of Great Britain and her commonwealth of nations. As instances of the drift of current thought, outside our own boundaries, permit me to cite this sentence from a recent editorial in the "London Times": "It may be said that the one hope of humanity resides in a still wider acceptance of the doctrine of

the right of each individual to a full, complete, and unthreatened life, insofar as this may be obtained without damage to the same right of others." Also the following from the "Free Press," Winnipeg, Canada: "Materialism, coarseness, petrifies everything, makes everything vulgar. To crush what is spiritual, moral, human, to become mere wheels of the great social machine, instead of perfect individuals, is to make society and not conscience the center of life; to enslave the soul of things—this is the dominant drift of our epoch. What is threatened today is moral liberty, conscience, respect for the soul, the very nobility of man. The test of every religious, political or educational system is the man it forms."

I wish I had time to quote somewhat at length from the recent book by that great and benevolent American, Herbert Hoover, on "American Individualism," but time forbids. Suffice it to say that he commends an adherence on the part of the American people to those fundamentals upon which the foundation and substructure of our Democracy rests. The cornerstone, he declares, is individualism, and in speaking of this he says: "We have, in fact, a special social system of our own. We have made it ourselves from materials brought in revolt from conditions in Europe. We have lived it; we constantly improve it; we have seldom tried to define it. It abhors autocracy and does not argue with it but fights it."

I think the tragic failure, with the resulting incalculable woe, chaos and suffering, which the experiment in communism in Russia has proven to be, is one of the things responsible for the rapid comeback of individualism. Permit me to quote briefly an article written by Mr. Julius H. Barnes, President of the United States Chamber of Commerce, after his recent journey through Europe. Said he: "The sole menace to the resumption of human progress, based on full employment and a widening of individual opportunity, rests in the relation of government to their people and to industry. Social theories, tried in Europe to utter failure, are urged in altered form in America today. Communism and socialism have wrecked three formerly great peoples: Russia, Germany, Austria. Three years has written a clear endorsement of the American philosophy of individualism, progress by individual effort, protected and secured as the sole sound and moving force in human progress. It remains, therefore, for America to make sure that the relation of government to industry shall be maintained as wisely free as possible from the poison of social experiments that have wrecked those other lands. As the simple and ready test of the neces-

sity for, and the character of, any proposed legislative or administrative act, I suggest to the business men of America the application of this test, namely: "Is it necessary in the preservation of absolute fair play for every individual?"

In closing, permit me to say that under the fundamental principles of our wonderful American system of government, as expressed in our national and state constitutions, we can work out all these problems without forsaking a single one of such fundamental principles, and that in so doing we will find that in the ultimate whatever is injurious to the individual is injurious to society and the state, and that there is in reality no conflict between liberty and authority, individualism and government. Let us give to society and to the state their just dues, but let us also maintain the just rights of the individual. For society and for our beloved Country, we will open our purses, restrain our passions, exercise our patriotism in peace or in war, but in return let them leave to us our own individuality. In a very true sense, we wish to belong to ourselves. Protect us against the invasion of our liberty by others, but it is each man's privilege and duty as a responsible free agent, after being given a fair opportunity for self-development by society and government, to protect himself against himself. We do not need to develop a race of hot-house plants, or a people of monotonous uniformity. This only can genuine moral stamina and true manhood rise to its full proportions. There is a point beyond which the infringement upon individual right and liberty should not go, even for the supposed common good. Individual liberty, breathing through the Declaration of Independence, blood-bought by the Revolution and to a large extent crystalized into our Constitution, both Federal and State, in spite of its frequent abuses and excesses, has kindled that laudable individual ambition, enterprise and initiative, and nourished the growth of those great pioneer personalities, which have made out of a vast wilderness this glorious country of ours, as it stands today, politically, morally, and industrially, the greatest and most promising of the modern world.

"Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great;
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate.
We know what Master laid thy keel,
What Workman wrought thy ribs of steel;

Sail on, nor fear to breast the sea—
Our hearts, our hopes, are all with thee—
Our hearts, our hopes, our prayers, our tears—
Our faith, triumphant o'er our fears,
Are all with thee, are all with thee."

The Public and Legal Procedure

By HON. W. B. S. CRICHLAW

Of Bradentown

It is fortunate that in this city I have the opportunity to address this Bar Association on problems concerning our system of judicial procedure. Fortunate, because the conditions which are so well typified in the growth and prosperity of this city are the very conditions which furnish a background for the subject with which I am to deal; typical in illustration of the changes which have occurred in the industrial life in this State, in its transformation from a purely agricultural community with its sparsely scattered farm houses and large acreages of the '60's, '70's, '80's and even the '90's to intensified industrial pursuits of much larger and more diversified nature, including agriculture conducted under scientific management; manufacturing, transportation, mining and entertaining; typical of the enormous and rapid increase in population which has taken place in what were the backwoods of this State; typical in the change in social life and business habits and customs of our people, and withal, typical in its needs for a new adaptation of our methods of administration of the laws.

To understand the methods of administering justice at the present time, we must perceive the problems which confronted the courts and the legislature at the time that this State was a primitive agricultural community and the difficulties with which lawyers and judges alike had to contend in meeting those problems. We must perceive the attitude of such community toward legal procedure and its conception of the nature and function of a trial. We must perceive its attitude toward government and administration, and its deep-rooted objection to supervision, restraint and control.

Among the early problems in the history of this State upon the part of the courts was the working out of a system of rules and principles applicable to the social and economic conditions which they were intended to serve. That the common law of England was fully and entirely accepted at the outset in the history of this country is largely theoretical. After the Revolution, the public was extremely hostile to England and to all that was of English origin, and the law did not escape this odium. Under the influence of such ideas, New

Jersey, Pennsylvania and Kentucky legislated against citation of English decisions in their courts. There was a rule against such citations in New Hampshire. "These precedents were but the rags of despotism; the judges who rendered them but tyrants, sycophants, oppressors of the people and enemies of liberty." This opposition was partly political and in a large part, also, social. Owen Wister remarks, "The unthinking sons of the sagebush ill tolerate anything which stands for discipline, good order and obedience; and the man who lets another command him they despise." In the rude pioneer community, the main point was to keep the peace. That community was best governed which was the least governed. There must be no magisterial or administrative or judicial discretion. If men had to be governed, it must be by known rules of law. The chief object of procedure was to tie down the magistrate by leaving as little to his personal judgment and discretion as possible, and at the same time to leave as much latitude as possible to the initiative of the individual, and to reduce all governmental and official action to the minimum required for the harmonious coexistence of the individual and of the whole.

The system of procedure and trials was impressed by these conditions. The farmer, during intervals of work, found his theatre in the court house and looked to politics and litigation for amusement. "No small part of the exaggerated importance of the advocate in an American court of justice, of the free rein, one might almost say the license afforded him, while the judge must sit by and administer the rules of the combat, may be traced to frontier conditions and frontier modes of thought. When the farmers of the country have gathered to hear a forensic display they resent the direction of a verdict on a point of law which cuts off the anticipated flow of eloquence. They resent judicial limitation of the time for argument, since the audience is to be considered, as well as the court and the litigants. Hence, legislation tying down the trial judge in the interests of untrammelled advocacy, had its origin on the frontier. In particular it may be shown that legislation restricting the charge of the court, has grown out of the desire of eloquent counsel, of a type so dear to the pioneer community, to deprive not merely the trial judge but the law of all influence upon trials and to leave everything to be disposed of on the arguments. The frontier spectator in the forensic arena is not unlike his urban brother who looks on at a game of baseball. He soon learns the points of the game and knows and appreciates those who can play it."

In another way, have the rural conditions of this State affected judicial procedure. "Everyone that was in distress and everyone that was in debt, and everyone that was discontented gathered themselves on our frontier settlements to begin life anew." Hence, the attitude was not favorable to the creditor seeking to enforce his claim. Extravagant powers in juries, curtailment of the powers of trial judges, and a host of procedural obstacles in the way of plaintiffs and a vested right in errors of procedure on the part of the defendants—all of these features of our legal system grew out of the desire of the frontier community to shield those who had fled thereto from the execution of their creditors.

In those days, there was no need to protect men from themselves, to enforce sanitation, to inspect the supply of milk, to protect the savings of the small investor from "get-rich-quick enterprises," to regulate conditions of labor, to provide a minimum wage, to finance large road and drainage enterprises. These, among a score of other demands which have been made upon the court, have grown out of increased wealth, density of population, changes in social life, security of acquisitions and security of transactions. In undertaking to meet new demands which have fallen upon the administration of the laws, the courts and the bar are shackled with a system of rules and principles developed for rural communities, or small towns—for men who needed no protection other than against aggression and overreaching between equals, and dealing in matters which each understood.

We have been slow to learn that democracy is not a synonym of vulgarity and provincialism; that the court of the sovereign people may be surrounded by dignity, which is the dignity of that people; that order and decorum conduce to the dispatch of judicial business, while disorder and easy-going familiarity retard it; that a trial may be an agency of justice among a free people, without being a forensic gladiatorial show; that a judge may be an independent, experienced, expert specialist without being a tyrant. Not the least factor in making the courts and bar efficient agencies for justice, will be the restoration of common law ideals and the deliverance of both from the yoke of crudity and coarseness which the frontier sought to impose upon them. The rapid growth in population, transportation, and means of communication which have taken place within the past thirty years in this State, have brought about social and economic conditions to which our system of procedure, as has heretofore prevailed, is wholly unadapted, archaic and unsuited.

Another problem in the administration of justice rapidly growing in proportion to our increase in wealth and population is to make adequate provision for petty litigation, to provide for disposing quickly, inexpensively and justly of the litigation of the poor. It is here that the administration of justice immediately touches the greatest number of people. If the will of the individual is subjected arbitrarily to the will of others because the means of protection are too cumbersome and expensive to be available for one of his means against an aggressive opponent who has the means or the inclination to resist, there is an injury to society at large. The best of rules are thus made nugatory in action. The machinery whereby rights are secured practically defeats rights by making it impractical to assert them when they are infringed. It is no answer to this condition to remark that litigation ought not to be encouraged, because the rights of the average man can only be thus maintained. Litigation ought to be discouraged in so far as it makes for buffoonery, where a law suit is a game, and a trial a spectacle. The danger, however, in discouraging litigation is that we encourage wrong-doing, oppression, overreaching, the power of might, and this condition is growing in acuteness day by day throughout our State and particularly in our cities. Of all people, we should be the most solicitous for the rights of the poor, no matter how petty the causes in which they are to be vindicated. Unhappily, we have been callous to the just claims of this class of controversies.

The system of procedure which now prevails in this State is based substantially on Chapter 1096, Acts of 1861, which has been amended from time to time in various particulars. It was adapted to and framed in behalf of the interests of the population and social conditions of the State, as the same existed in 1861, and has been modified only in minor particulars. That it has proved entirely inadequate and increasingly untrustworthy, is the opinion of both the bench and the bar, and its defects have been the subject of criticism in more than one political campaign in this State. In 1911, the legislature authorized the Governor to appoint three lawyers "of ability and discretion to constitute a commission for the purpose of examining into the laws and system of pleading and practice embracing both common law and equity procedure in this and other states, and to prepare such bills which in their opinion may simplify the administration of law and promote the ends of justice." This commission was appointed from among the most able men of the bar of this State, and reported back to the legislature in accordance with the provisions of this Act, but their recommendations

were not adopted by the legislature. At practically every meeting of this Bar Association since this committee reported, phases of this question have been discussed without any action having been taken. One of the most interesting and important addresses on the subject was in 1920, by Mr. C. M. Cooper, a member of this commission, and another important address covering the same subject matter was by Mr. Louis C. Massey in 1922 at Orlando. The concensus of the bar is that our system at the present time is expensive, extremely technical, and encourages delay. Mr. Massey said at Orlando, "For sixty-one years we have tried out the statutory method of raising objection to pleadings. It has failed us." Mr. Cooper's opinion conforms with the view expressed in this paper that the system is archaic and unworkable in applying the substantive law to question of facts as they arise in our court today, and is impractical and inexpedient.

The attitude of the public towards the practical operation of legal procedure is that it should be resorted to only in extreme cases; that the delay, expense and technicalities, as they exist, do not make the courts a trustworthy and reliable instrumentality for settling differences between man and man. It, therefore, relies on its ability to make compromises, to use economic pressure, to take losses and suffer disadvantages and indignities, to the delay, expense and uncertainty of results through legal processes. The bench and the bar are held responsible for this condition and the courts are no longer looked to as the bulwark of safety for the vindication of individual rights.

It is imperative from every point of view that our procedural system have the serious, immediate and effective consideration of this Bar Association. It is necessary to the well-being of our State and to the proper discharge of our duties as public servants to advocate and to obtain remedies for the conditions which thus exist. What procedure should be followed in order to bring about these results, I am not sufficiently gifted to say. I have two suggestions to offer that may do something towards improvement of these matters. In the first place, the legislature should vest in the discretion of the Supreme Court the power to prescribe rules of procedure, at law and in equity. Since the courts are held responsible for the results which must be obtained, the means for obtaining these results should be vested in their discretion. In the second place, the rules of court as they may be thus prescribed governing procedure should contemplate placing in the hands of the trial judge control over the pleadings, and the making up of the issue at a very early date after suit has been begun. The shortening,

simplifying and modernizing of our procedure and the effective administering of the laws will not result until this system of procedure is substantially adopted.

England, the home of the highly technical common law practice and procedure, for almost eight centuries, the procedure upon which our system is founded, in 1893, by Act of Parliament, abolished its old forms and placed power to make rules in the hands of the court; in fact, abolished all technicalities of every nature, and turned over the practical operation of the courts to the judges and lawyers. Since 1893 the rules of procedure as laid down by the Supreme Court of Judicature have been the only rules of procedure which have been followed there. The present procedure prevailing in England is the result of rules adopted in 1883, amended from time to time as experience has shown desirable. Rules and amendments are reported to Parliament for its rejection or amendment, but until that is forthcoming they control the procedure. The courts of the High Court of Justice have full power to give any kind of relief that the nature of the case requires and important commercial cases are often submitted and disposed of within forty days. Lord Bowen, one of the great English judges, in his jubilee essay on the administration of the law in 1887, as compared with 1837, used these words:

"A complete body of rules—which possess the great merit of elasticity, and which (subject to the veto of Parliament) is altered from time to time by the judges to meet defects as they appear—governs the procedure of the Supreme Court and all its branches. In every cause, whatever its character, every possible relief can be given with or without pleadings, with or without a formal trial, with or without discovery of documents and interrogatories, as the nature of the case prescribes—upon oral evidence or affidavits, as is most convenient. Every amendment can be made at all times and all stages in any record, pleading or proceeding, that is requisite for the purpose of deciding the real matter in controversy. It may be asserted without fear of contradiction that it is not possible in the year 1887 for an honest litigant in Her Majesty's Supreme Court to be defeated by any mere technicality, any slip, any mistaken step in his litigation. The expenses of the law are still too heavy, and have not diminished *pari passu* with other abuses. But law has ceased to be scientific game that may be won or lost by playing some particular move."

This summary is further upheld by Mr. Dicey:

"Any critic who dispassionately weighs these sentences, notes their full meaning, and remembers that they are even more true in 1905 than in 1887, will partially understand the immensity of the achievement performed by Bentham and his school in the amendment of procedure—that is, in giving reality to the legal rights of individuals."

The means by which this reform has been accomplished by the framers of the rules has been to give the court, at an early stage of the litigation, entire control over the suit, and a close supervision over the proceedings and action. Thus, dilatory steps have been eliminated, unnecessary discovery prevented; needed discovery promptly had, and the real issues in the case brought to the forefront; suit is begun by service of a writ of summons, and shortly after the appearance of the defendant a summons for directions is issued to him at the instance of the plaintiff, requiring him to appear before a master or judge to settle the future proceedings of the cause. In a commercial cause, the pleadings are usually settled by the judge to whom the case is assigned. Where the claim is for a fixed sum, as upon a contract or note, and the plaintiff files an affidavit that there is no defense, the defendant is required to file an affidavit showing that he has a good defense and specifying it before he may answer. If he files no such affidavit, the judgment goes against him. In other cases, the judge makes an order fixing the time for pleading and trial, and no step is thereafter taken without application to him, so that he supervises all discovery sought, decides what is proper, requires the parties "to lay their cards face up upon the table" and the real issue of fact and law is promptly made ready for the trial.

I regret that time does not afford me the opportunity to furnish some statistical information of the effect of the administration of justice under these rules in the disposition of cases. The result in dispatch of legal business by the courts is remarkable, both as to swiftness and to certainty.

The English procedure is suggestive of a fundamental basis of reform which could, and should, be adopted in our courts. There are many phases of it which are not suited to our conditions, but substantially the notions which underlie it apply equally to our social and economic life. The least that can be said is that the two essential ideas upon which it rests and upon which the change was made from the system that prevailed in England at the time of its adoption fully apply here. The failure of justice in this country and especially in our state courts has been more largely due to withholding of power

from judges over proceedings by them, than any other causes, and yet the judges have to bear the brunt of the criticism which is so general as to the result of present court action. The judges should be given power commensurate with their responsibilities. Their capacity to reform matters should be tried to see whether better results may not be thus attained. They are not chiefly responsible for the present defects in the administration of the laws. Let the legislature give them an opportunity to show what can be done by vesting in them sufficient discretion for the purpose. Should that discretion be abused, it is completely within the power of the legislature to remove, or modify it.

Realizing the wisdom of the English procedure, Congress has vested in the Supreme Court of the United States power to formulate rules of procedure in equity, admiralty and bankruptcy matters, and a bill has been pending before it which has had the endorsement of the American Bar Association, and practically every State Bar Association in this country, as well as the endorsement of leading teachers and magazines, giving to the Supreme Court power to prescribe from time to time the entire pleading, practice and procedure to be used in proceedings at law in the District Courts and the Circuit Court of Appeals of the United States so as to promote the speedy determination of litigation on its merits. The satisfactory results which have been obtained from change in the equity procedure in the District Courts of the United States give assurance that like power will be given to this body over rules in suits at law. The ultimate test of its efficiency will be its benefit to the public, which should greatly increase savings of cost now necessary to be expended on account of technicalities in procedure, and correct the harm done to the cause of justice. The movement will create respect from the public in the efforts which the bar and bench are exerting to make justice more simple, more swift, more available, and more sure. If the bar thus senses its duty and opportunity, the public will in turn cooperate through Congress in quickly assisting in the remedy of the defects complained of.

Probably no single factor will enable our State Bar to act as a whole in improving its system of procedure more quickly and effectively than through the passage and enactment of the proposed bill to regulate the bar. The time has long since past when the bar of this State can neglect having a central organization through which it can think, act and speak. Instead of this association being attended by seventy-five to one hundred members of the bar of this State, the annual attendance should represent six to seven hundred members. The

attorneys in the country towns and smaller cities should renew their thoughts of the purposes of their profession, its shortcomings, as well as its merits and the means of improvement. The lawyers of this State should become more familiar with the efforts which are being put forth by the American Bar Association for improving laws and the means of administering justice throughout this country. It should no longer be possible for attorneys in country towns and small cities to run along year by year without any thought of the conditions as they exist elsewhere in the State, and, therefore, in a broader sense in their own localities. Betterment and reforms, not only in procedure but in other phases of professional life, cannot be effected without a closer, more thorough integration of the bar of the State as a whole, and movements such as are being advocated in this paper, regardless of the benefits, commercially and socially, to the people of this State, cannot be effectuated without the knowledge of their purpose by the bar throughout the State, and, through the bar, the public. It is greatly to be hoped and desired that the proposed bill for regulating the bar of this State should have an early introduction in both houses of the legislature, and an early passage and approval by the Governor.

In the event of the enactment of this proposed bill into a law, no benefits which will be derived from this Act will be of greater benefit to the cause of the administration of justice than will accrue from the powers vested in the Board of Governors set forth in Section 12, which reads in part as follows:

"The Board shall * * * make reports and recommendations to the State Bar at the annual meetings and to the Supreme Court of the State on matters pertaining to the administration of justice in the State; shall annually report to the Governor and the Attorney General the condition of litigated business in each of the judicial circuits of the State, which report shall be embodied in the report of the Attorney General to the legislature and generally shall act for the State Bar in all matters pertaining thereto."

The Board of Governors would thus constitute a clearing house for new matter affecting both the procedure and the substantive law of this State, in investigating conditions, recommending changes, in pointing the way to a closer adaptation between the substantive law and issues of fact as they may be brought before our courts. I do not know the accuracy of this statement, but it is repeatedly said that more than 65 per cent of the decisions of our Supreme Court revolve on questions of procedure and, therefore, the courts are unreliable to that extent in

fitting and applying the law to the merits of the case. The teller at the window of a bank who is not more accurate in accepting deposits or in disbursing funds would be instantly discharged, and yet this condition is permitted to exist in our procedural system as common place. To paraphrase the statement of Lord Bowen, it should not be possible under our system of procedure for an honest litigant in our state courts to be defeated by any mere technicality, by any slip, or any mistaken step in his litigation, and until our bar is more thoroughly and effectively organized, until the courts are given full control over the rules governing their proceedings, and over the proceedings themselves, this condition will not prevail. The bar should not delay exerting its full force and strength through the press and through its legislators in procuring the enactment of this law, and in procuring suitable legislation governing court procedure.

Progressive Development in the Law

By HON. F. M. HUDSON
Of Miami

I had a client not so very long ago—a would-be client, rather—who came in and wanted to talk about a little matter of business. You lawyers who live away from here possibly do not know, but those of you who do live here do know that we deal in equities in real estate as much as the man up in the cattle country deals in cattle, or in the cotton country in cotton; we sell a lot, and the buyer will put on a mortgage and sell his lot, and the purchaser will put on a mortgage and sell again, and so forth. Finally when they get well down the line, the owner will collect up all the strings, clean up the equities, and sell out again. Well, this client came in to me and said, "I want to sell my iniquity." There are no fellows in the world that can better sell their iniquities than the lawyers, and I am going to talk a little along that line this afternoon. It is, of course, a popular misconception; nobody will maintain more strenuously than I will that it is a popular misconception, but the things I am going to talk about have relation simply to those misconceptions.

Chief Justice Marshall said in the Virginia constitutional convention before he became Chief Justice of the United States, in discussing the Judiciary Article of the Virginia constitution, "The greatest scourge that an angry and avenging God can send upon a sinful and erring people is an ignorant and corrupt or a dependent judiciary," and we all believe that to be true. He might have truthfully added that no greater curse can afflict any community than venal, irresponsible and unscrupulous lawyers. I am glad there are no more of that class than there are. We often hear of the misdeeds of disreputable lawyers, of the shyster. I am somewhat of an optimist, but I am not such an optimist as to believe that the time is going to soon come in spite of our bar associations, in spite of our code of ethics, in spite of our legislation, when we will be entirely free of disreputable lawyers. The great body of the profession are not of that class, but some of that class there are, and will remain. We can pretty closely approximate how many there are going to be at any given time; that is, there will be just about enough disreputable lawyers to attend to the business of the disreputable clients. It is the disreputable clients who breed disreputable

lawyers, and it is only by cooperation between clients of the right class and lawyers of the right class that the lawyers of the wrong class are going to be eliminated.

We claim to be progressive; we pride ourselves on our progressive development. One of the great factors in progressive development in the legal profession, in our system of jurisdiction, is morality. I think it cannot be successfully contradicted, because nobody knows, but we can theorize on the subject, and I believe the theory is correct, that there probably was a time among our wild, uncivilized forefathers, when robbery was not right or wrong; robbery was not immoral, it was just a question between the weak and the strong—the stronger prevailed. Then later society developed the idea, and it came to be recognized that robbery was wrong, that it was immoral, and because it was immoral, it was made illegal. And so we can go back from the beginning, and trace through the history of our law, and trace its development, and we are going to find that because things were immoral, because they were wrong, they were made illegal. Such has been the course of our history, and so I maintain that the law has to do with morals. It cannot be disputed, in the sense that Blackstone used the term, that law is not concerned with morals, when they mean my individual morals as applied to me alone, or your individual morals as applied to you alone. But when the time comes that my system of morals, or your system of morals infringe upon the rights of your neighbor, and tend to do harm to your neighbor, then your morals and my morals will be a matter of concern for the law. It always has been, and it always will be, so long as we maintain a system of jurisprudence founded upon the principles that have underlaid the Anglo-Saxon system, and which underlie our system.

Under the principles that we have set forth as fundamentals in our constitution, morality is greatly the concern of the law in that sense, and it is interacting. It is true that not always has the idea of a moral wrong preceded the enactment of a law, but so close interrelated are they that the law making powers have come to see at times—though it is not the rule—that an act may be injurious although it has not been considered a moral wrong, and when that condition arises it is the province of the lawmaking power to say that that act shall be deemed a wrong. There we have the distinction between *malum per se* and *malum prohibitum*. *Malum per se* has given rise to the greater part of legislation, but equally effective and equally necessary is the provision against *malum prohibitum*. When the *malum prohibitum*

has been established as a wrong, it becomes the duty of every law-abiding citizen, and of every lawyer who has sworn to uphold and defend the laws, that he shall regard the violation of a *malum prohibitum* as a moral wrong, and I take the position that as lawyers and judges, when we violate any law of our country, it matters not what it is, we show ourselves as unworthy citizens and unfit for the positions that we occupy.

I have not told you yet what I was going to talk about. Colonel Kay talked yesterday, and his speech was "Some Thoughts." I do not know but that you might lable mine "Some Alleged Thoughts." At any rate, I am not going to take a great deal of time, but spread out a little. The main theme that I am to talk about is Progressive Development in the Law.

Development and progress are essential to the maintenance and life in our system of jurisprudence. I am going, in order to show you just where we would be if we had not progressed, to take you back to the good old times. We find it said that today our condition is not what it used to be, or that today we are degenerating, but to show you how things were in 1660, I am going to read you some excerpts from a judicial record, and in order that there may be no doubt about it, I will tell you that this is a verbatim quotation from Howell's State Trials. It is not particularly interesting in itself, but it is interesting as showing how things were done in that day, and it serves a double purpose, a purpose first of showing where we would be if we had not progressed, and second of showing that things are not now so bad as they might be. This is the report of the trial:

"The Lord-Chancellor being then Lord-Steward, came from Worcester-house in his coach, having (besides his usual attendance) Sir John Eaton, his majesty's chief gentleman-usher, carrying a white staff nine foot long; and sir Edward Walker, Garter king at arms in his coat of office attending on him. And he was met at Westminster-hall-gate with five maces more, who all went before him into the court, where he took his place in a chair of state; the five maces placed themselves on each side of the state; and serjeant Lee went into the body of the court, and there laid down his mace; and he supplied the place of marshal or crier of the court. Sir John Eaton with the white staff, and sir Edward Walker stood at the lower-end of the state; sir John Eaton on the right-hand of the lord-steward, and sir Edward Walker on the left.

"The Clerk of the Crown in chancery, standing at the lower end of the court, with three obeisances coming up to the Lord-Steward, on his knee presented the Commission unto him.

"Sir Thomas Fanshaw, clerk of the crown in the King's-bench, with the like reverence, came and received the Commission from the Lord-Steward, and returned to his place in the midst of the court.

"Serjeant Lee, after an O yes, made proclamation, viz. The Lord High-Steward of England doth command all persons to keep silence, while his majesty's Commission is reading. Sir T. Fanshaw read the Commission.

"Then sir John Eaton and sir Edward Walker carrying the white staff between them, on the knee presented it to my Lord-Steward, and he delivered it back to sir John Eaton, who placed himself with it on the lower end of the state, on the right hand of the Lord-Steward, and sir Edward Walker on the left, on a seat even with the body of the court, having a space between them for the Lord-Steward to see the prisoner; on which seat also sat the clerk of the crown in Chancery, and Mr. Kipps, the seal-bearer, the seal being laid at the lower end of the state before the Lord-Steward.

"O-yes again, and proclamation made; The Lord High-Steward of England doth command all persons whatsoever, except peers, and privy-counsellors, and judges, to be uncovered.

"Serjeant *Barcroft* called to make return of the precept to him directed, who came into the body of the court, and delivered it to sir Thomas Fanshaw, and he read the return on the backside of the precept.

"O-yes again, and the Lords required to answer to their names.

"The Lords Triers called by the list, Mr. Warterhouse, Assistant to sir Thomas Fanshaw, reading their names, and Serjeant-Lee calling. * * * * *

"O-yes again and the lieutenant of the Tower called, to make return of his precept, and bring in his prisoner.

"The prisoner brought to the bar and the precept delivered to Serjeant Lee, and by him to sir Thomas Fanshaw, who read the return on the backside of the precept.

"Then the Lord-Steward made a speech to the prisoner, telling him the cause of his being brought thither.

"The Indictment read by sir Thomas Fanshaw and the plea made in the king's-bench, where he had pleaded Not Guilty, and put himself upon his peers.

"Then the Lord Steward made a speech (by way of charge) to the peers.

"O-yes, and proclamation made; If any will give evidence for our sovereign lord the king against Thomas lord Morley and Mounteagle, they shall be heard; the prisoner stands at the bar upon his deliverance.

"Lord-Steward said, he heard the lord Morley was lame, and therefore bid the lieutenant of the Tower set a chair for him to ease himself.

"Lord Morley desired to be heard; but the Lord-Steward told him, that it was usual to hear the evidence first, and after that he might and should be heard any thing he had to offer; whereupon he sat down.

"Lord Steward desired the Lords to withdraw into the Court of Wards, and consider of their evidence; but he did not sum up the evidence.

"Lieutenant of the Tower bid to withdraw his prisoner.

"The Lords and the prisoner being withdrawn; serjeant Lee brought wine and biscuits to the Lord-Steward, and then round the court.

"The Lords stayed about three hours, and then returned into the court, and took their places. Sir Thomas Fanshaw first called them according to their precedence; and all being present, he then called them again, beginning with the lowest, who answering to his name,

"The Lord-Steward asked him, saying, My Lord Fresheville, is my Lord Morley Guilty or Not Guilty? Who laying his hand on his breast, answered, Not Guilty of Murder, But Guilty of Manslaughter. And in the same manner asking them all severally, they all gave the same answer, except two, the Lord Wharton, and Lord Ashley, who answered Guilty of Murder.

"The Lords having delivered their verdict, the Lieutenant of the Tower was commanded to bring in his prisoner. The Lord Steward told him, his Peers had found him Guilty of Manslaughter, and asked him, what he could say for himself? He answered, he desired the benefit of the clergy, and the benefit of the statute. Lord Steward said, he must have the benefit of the clergy: and that he conceived the statute was clear in his behalf; and asking the opinion of the Judges, they all bowed in token of consent.*

"The Lord-Steward making a short speech of admonishment to the prisoner, told him he was discharged, paying his fees; and then dismissed the Court, and broke his staff."

6 Howell's State Trials, Columns 774, 775, 776, 785, 786.

Now, if there is anybody who has fault to find with our methods of procedure in Dade County, I respectfully refer them to that document.

As I have said, to start with, that shows us, in the first place, where we would be if we were back in the good old days, and had not progressed; it shows us, in the second place, that things are not so bad as some people would have us believe, in the present day. It might be worse. However, we only need to refer to Scott or Dickens, the celebrated case of Jarndice vs. Jarndice, or the case of poor Peter Peeples, to realize that even back in the days when Scott and Dickens wrote, the idea had become prevalent, and we know that it is prevalent today, that the methods of procedure in the courts are unsatisfactory, that justice is being delayed, and that justice is not to be had in the manner that Lord Bowen has laid down, as Mr. Crichlow has just read to us. Those ideas prevail, and no matter how much we may kid ourselves as lawyers, we cannot escape that fact.

In an excursion into family history some years ago I found that one of my family conceived himself entitled to an estate in England. He went back to England to see about getting it. He was advised by reputable lawyers that he had a good chance to win, but it would take fifty years to terminate the litigation, and he decided the game was not worth the candle. And there are other well-known, authenticated cases in which litigation has been prolonged through a lifetime. Now, those are the exceptional cases; I am not suggesting that those cases are indicative of conditions in general today, but I am speaking of those things because they are the cases that seem to weigh upon the public mind, and it is that idea that has led me to the treatment of the subject that I have chosen today.

The fundamental fallacy with the layman is that in his criticisms he overlooks the extenuating circumstances. The extenuating circumstance is set out in this record I have read to you; that is, it is implied. It might be very culpable for us to have an imperfect system of jurisprudence, if we had made it ourselves, but when it appears that what we have is a great improvement over what we have inherited, the case takes on a new aspect. Any error which does violence to the truth is an aid to lawlessness. This error will never be cured until education for citizenship includes a profound study of history. A study of history ought to teach our laymen that things are not always as they appear upon the surface, and that there is a fundamental reason behind everything that exists in our system.

I am not going to propose any system of legislation. Mr. Crichlow has outlined certain legislation that is designed to accomplish a reform in our judicial procedure, but what I am going to talk about is a question of attitudes, rather than legislation. This much I have to say about legislation: I do not believe in piecemeal legislation, in correcting errors in our procedure. We either ought to have legislation that will clean up the whole thing, and start over, or we better go very carefully. We have only to look at the law which adopted the Federal rule as to answers in chancery in our state to see that the body of our jurisprudence is so constructed that if you break the bone of one finger, you don't know but that the whole skeleton will fall to pieces. That one act of the Legislature, I believe, in the experience of every lawyer here, has caused more mental anguish than ever existed in the use of the old system, and there are hundreds of illustrations along the same line. You do not need tinkering legislation, but when we go into a plan to reform our system, it ought to be comprehensive; it ought to

be well tried out and proven before we undertake it, because every such change involves innumerable decisions of our courts on questions of procedure, multiplying those questions rather than removing them.

That fallacy is chargeable to the layman. There is another fallacy, closely related to it, which is chargeable to the lawyer, and that is the assumption that the layman and the voter are going to be satisfied with the historical explanation of these defects in our procedure. The average layman cares nothing about the history of it; he says that it matters very little whether a judge on his approach to the seat of justice, is not now preceded by his chief gentleman usher "carrying a white staff nine foot long," or that during the wait for the jury's verdict there is now no sergeant to pass biscuits and wine, or that a convicted prisoner can no longer plead the exemption of his privileged class, and escape the consequences of conviction by demanding the benefit of clergy, or that the lord-steward no longer concludes such proceedings by breaking his staff. They answer that the abolition of these anomalies should be taken only as a prophecy of other reforms to come. This is the view of the average layman, and the average laymen are immensely in the majority. Under our system of government, the average laymen are going to settle this question.

In my own opinion, democracy offers the only road to free and enlightened government. It may take us long to attain our ideal. It may be a long lane; but there is no other road. But my opinion on this point is immaterial. It is only a theory. It is possibly a theory which you do not accept, but the established fact is that the laymen do the voting, and in large measure, the lawmaking, and the important question is not so much what do lawyers *think* about it, but what are the laymen going to *do* about it.

There is an insistent cry for change, for reform, and those who are making the demand have the power by their votes to enforce it, and sooner or later something is going to happen.

The question is shall we, as lawyers, be in a position to give aid in securing beneficial changes, or are we going to leave it to the populace to make such changes as they in their imagination and in their aspirations for betterment may deem to be the proper changes? My position is that by sane observations of the changed conditions, and by conformance to those changing conditions so far as that conformance is possible and right, we as lawyers should adjust ourselves so that, being in a progressive profession, we may progress with economical conditions, and be in a position to lead, aid and control, and not have to

stand by and see something done that may bring disastrous results and possibly anarchy.

And right here we come in contact with a tendency towards an ultraconservative attitude on the part of the bar. This attitude produces opposition, or, at least, indifference toward all schemes of judicial reform. The explanation of this attitude has been given in part; but, furthermore, a lawyer's education, his environment, his habits, traditions, bind him hard and fast with "red tape," and tend to make him excessively conservative. It is the mark of the great lawyer that he can overstep these tendencies.

Again, the lawyer is so often confronted with schemes of reform which are puerile, and criticisms of present conditions which are baseless, that he sometimes loses the power of discrimination, and becomes impatient of *all* change. He is tempted to declare that whatever is, is right. Such an attitude on the part of the bar is, in the end, as destructive to society as is the wildest demand for change on the part of the laity. Any serious conflict between these two conceptions is apt to result disastrously to the body politic, and so, as a matter of right or wrong, we owe it to society and to our posterity to avoid useless conflict by preserving open minds—receptive of the truth, from whatever source it may come. By accepting and aiding helpful changes, we will place ourselves in the most advantageous position to combat the hurtful innovations. By doing our utmost to preserve an attitude of sympathy and harmony, we can best hope to secure the cooperation of the public in efforts to sustain the essential principles which are the foundations of free institutions.

If we are to govern ourselves by no higher motive than policy, we should remember that, by securing harmony, between the two schools of thought, we can accomplish more than by working in unnecessary opposition.

Our civilization is advancing, and changes will come. The technical knowledge of the lawyer always commands respect, and is essential to the correct solution of the great problems constantly arising in the field of lawmaking and jurisprudence. It will not be difficult for the bar to hold the place of leadership. They can thereby render great aid in bringing about changes which will be rational and constructive. Changes will come. If they come with our help and cooperation, they will come shaped and influenced by the knowledge and experience of men who ought to be best qualified to deal with such questions. If they come without our aid, society, and we as a part of

society, must pay the penalty that follows the use of a structure built by unskilled workmen; and the full extent of that penalty no man would dare to estimate.

Each of these errors is an aid to lawlessness. The correction of the first error, the layman's error, is in large measure beyond our power as members of the bar. It will come only with education, and perhaps when the truth will be of no avail. The correction of the second and third errors rests with us. It will come with a broad conception of responsibility as a great profession, when we fully and freely put the general good above temporary professional success.

With these general principles disposed of, we may well consider some of the more specific causes of popular discontent. The first of these is ill-considered legislation.

The first source of this error is the prevalent conception that the working of our lawmaking machinery is a huge joke. Possibly this is, in some cases, not far from the truth, but if so, the joke ought to be treated as a crime. The making of laws ought to be the most serious business of government. It is a work that should be committed only to our best and ablest men, and it should have their whole-hearted endeavor. The lawmaker should be the high priest of civilization.

Another source of error, applicable in Florida, is the constitutional limit of sixty days for each legislative session. As a result of that provision, all the legislation of each session is hurried and apt to be crude.

In the next place, our constitution permits too much local and special legislation. As a result of this defect, and the time limit provision, the municipal charters and the local fish laws, and the hog pasture bills are considered, and much legislation of a general and beneficial nature dies on the calendar, or is hurriedly and inconsiderately passed.

We need a higher standard of legislative conscience in both lawmakers and voters; but we will never have it until we have time and room for such a conscience to work in.

Ill-considered legislation is often due to a misconception of the functions of the legislator. Many lawmakers have never grasped the idea that the constitution is addressed to them. They enact a law and leave the question of its constitutionality to the courts; and again, an objection to the verbiage of a bill is frequently met with the argument that the courts will "construe" it.

Another source of ill-considered legislation is to be found in the hopelessness of the lawmaker when he is confronted with the prev-

alence and prestige of legislation by interpretation, by which the law is strained to mean what we want it to mean. This is a practice chargeable alike to bench and bar. The lawyer, led astray by his desire to avoid a hardship upon his client, urges a construction which, if he were unbiased, would appear plainly contrary to the legislative intent; and the court, overawed by the apparent exigencies of the case, justifies the demand and embraces the construction.

There is, perhaps, no greater temptation to interpretative lawmaking than that prompted by the desire to make our federal constitution pliable enough for present-day needs. A notable example is the current contention that a wild duck flying from Minnesota to Florida is engaged in interstate commerce.

Often the ends sought by interpretative legislation are commendable, and human nature frequently cannot resist the temptation to take short cuts; but none the less, to accomplish that end by a perversion of the law is as thoroughly lawless as to accomplish the same end by violence or fraud.

Interpretative lawmaking is in other cases prompted unconsciously by the desire to ameliorate a statute which is conceived to be hard (though that conception is frequently erroneous); but the surest cure for hard laws is their impartial enforcement; and the most certain method of establishing the dignity and efficiency of a legislative body is to allow it, within constitutional bounds, to say what it means, and to concede that it means what it says.

The remedy for this error is to be found partly in a realization that the court is not an appellate legislature. But this is by comparison a minor evil. The situation will correct itself whenever the lawmaking power shows that the courts can properly presume that they say what they mean, and they mean what they say.

I do not wish to be understood as minimizing the right and duty of the courts to declare unconstitutional legislation which contravenes the constitution. That is one of the great powers and the great duties of our courts and by nothing that I say here would I for a moment detract from that power. I only refer to those cases of the stretching of statutory construction and constitutional construction which is, very frequently, commonly indulged in by the lawyers, and sometimes by the courts.

Another source of vexation is the system of indirect pleading. The term "indirect pleading" is not thoroughly appropriate, because it is not descriptive. I mean by it, the system of pleading which allows us

to say one thing and mean another. Common sense would dictate that a declaration should explicitly state the ultimate facts of the plaintiff's case, and that the plea should distinctly and directly reply to the declaration; but some of our forms of pleading and some of the rules are apparently devised for the express purpose of concealing the facts. One result is to make careless pleaders of the lawyers and reckless swearers of their clients. How often have you heard a litigant admit, on the witness stand, that he swore to a pleading without real knowledge of its contents, because his lawyer said it was all right?

Another contributing cause is our devotion to archaic methods. As an example of this error, in this age of advanced civilization and complicated business methods, our jury trials are conducted just as they were in the primitive stage of our jurisprudence. At the end of weeks of testimony, the judge will read to the jury a charge covering reams of paper, a charge which twelve lawyers could not understand without close study, and then we require the poor fellows to guess at a correct conclusion. The juror who could do so would be a phenomenon, both as a logician and as a lawyer. The province of the jury is to determine questions of fact. How much more reasonable it would be to require the jury to return a special verdict in answer to specific interrogatories.

As a further illustration, a federal judge is assumed to be an authority in admiralty, an expert in patent law, well versed in mining laws, fully competent to deal with transportation and rate cases, and, at the same time, a Solomon when it comes to dealing with torts and crimes. In large measure, the lawyer in general practice must possess the same universal efficiency.

Now, right there I come to what I believe in my own mind—but you won't agree with me—is going to be, some day, the remedy for these conditions, and that is in specialization. To get to the point, if some lawyer in your town would set up to attend to probate business, and was going to give especial attention to probate business, you would probably hesitate to send him the probate business that came to your office, because you are still human; you would argue, "If I send him over there, and he attends to that probate business, he may get a good client away from me." But, if that lawyer would set up to attend to probate business, and nothing else, a good many of us would be glad to send all of our probate business over to him. And so it would be with the admiralty business, and so it would be with other lines. If there was a specialist to whom we could send clients, and know that we

were not bidding them good-bye forever, and they would come back to us when they got that particular specialty out of the way, we would all be glad to cooperate in that method of specialization.

We know also, and we do not often admit it, but it is the truth, that nine-tenths of the law's delays are due to the fact that we are examining abstracts, trying chancery cases and jury cases, have to appear before the Deputy Internal Revenue Collector, and in Washington before the Supreme Court and every other sort of a court and quasi court, and we cannot be in more than four or five places at once; consequently we cannot attend to the business as it comes in, and we cannot look after it expeditiously. The result of it is, when you want an extension, your neighbor says, "All right; because I will get caught in the same trap tomorrow, and will have to have an extension myself."

It is no use to curse the court or blame the juries; no use to talk about a bad system in other respects—we will all have to admit that nine-tenths of the law's delays are due to that very cause, and if we could specialize, if one of us could take chancery cases, for example, and nothing else, and stick to that, he could keep up with that court, and furthermore, by concentrating on some one thing his efficiency would be increased from one to five hundred per cent and the work could be done with far less wear and tear, better results being obtained for the client with much greater expedition.

I believe the time is coming, and that that is the only solution that is going to bring results, specialization in the practice of law, and specialization amongst our courts. I believe we will have to have courts for certain lines of practice to a greater extent than we have heretofore.

Now, I told Judge Brown I would talk fifteen minutes, and I have been about as truthful as a lawyer is generally reputed to be.

If I were addressing a civic organization, I should emphasize other conditions, such, for example, as the average citizen's indifference to the authority and majesty of the law, except as an instrument for his own advantage, such as our silent complicity in violation of the law, such as our constant acquiescence in petty lawlessness, such as the banal attitude of many jurors who, in spite of their oaths, regard jury service as an opportunity to aid their friends and punish their enemies. But these matters are passed over, because I have not attempted to discuss all the errors which serve as aids to lawlessness, but only some of those for which lawyers can be considered more directly responsible.

According to the popular ideal, the aim of jurisprudence is to approximate natural justice. As lawyers we are prone to say that that ideal is too far off, that it can never be attained, which is true; but we should bear in mind that the mariner never reaches the north star, and yet it leads him home.

The lawyer is satisfied with the attainment of artificial justice, justice in accordance with man-made laws; but whether we accept the one ideal or the other, we must concede that whatever defeats or retards the administration of justice, whatever lowers the standard of justice, whatever tarnishes our conception of the ideal, is an aid to lawlessness.

I have discussed certain errors of thought, errors of habit, and errors in our system of government which exhibit such tendencies. They are, therefore, aids to lawlessness. They are not merely abstract aids, but concrete aids; and if we would improve existing conditions, we must give them concrete treatment. Results may be slow of attainment, so slow that we often think it useless to try, but because the process is slow, the need is the more urgent that we should keep eternally at it.

President's Report

Members of the Florida State Bar Association:

The late Honorable William A. Blount, beloved and admired as the leader of the Florida Bar, during his incumbency as President of the American Bar Association, about two years ago, wrote an article containing this striking sentence:

"A single lawyer, walking with an unfaltering step the path of idealistic rectitude, will elevate the thoughts and practices of the whole bar with whom he lives."

He also urged another way in which the lawyer could contribute to the progress of his profession and his own growth, and that was by becoming actively identified with the Local, State and National Bar Associations—a practice which he had himself thoroughly exemplified.

Mr. Blount's successor, the present President of the National Association, Hon. John W. Davis, speaking along the same lines, recently said:

"I cannot think that any American lawyer has fully met the rightful demands of his profession until he has made himself an active member of his Local, State and National Associations.

"We are a scattered folk, we American lawyers. We issue from a multitude of law schools after diversified courses of study and are admitted to the bars of our several jurisdictions under regulations as multiform as legislative ingenuity forty-eight times multiplied can devise. Each for himself becomes speedily immersed in subjects that in their variety run the whole gamut of human experience, and random discipline is administered to us by a legion of independent and disconnected tribunals. So far as I am aware, this situation is not paralleled among the lawyers of any other country. The sole tie which unites us is that in a common language we serve a common law and inherit from those who have gone before common traditions of loyalty, of service and of honor."

The duty to maintain and transmit these traditions unimpaired stand in the forefront of those debts which every lawyer owes to his craft; and since it is a thing only to be performed effectively by concerted action in forms in and by itself a sufficient reason for the formation of bar associations and makes the call to membership in them imperative. Not only have the bar associations of the United States done a vital work in guarding the standards of professional training and conduct, but they offer the only avenue to solidarity, and in the last resolve the most effective means of inspiration and of discipline. The profession should not rest content until every lawyer worthy of the name is inscribed upon their rolls.

But grave as these things are, and great as is the service which a bar association can render to the law as a vocation, there are other

functions even more exalted. The exelling call upon both law and lawyers must forever be the pursuit of justice and the advancement of jurisprudence—that justice which Justinian defines as “the set and constant purpose which gives every man his due,” and that jurisprudence which he describes as “the knowledge of things divine and human, the science of the just and the unjust.”

We already have a larger percentage of our lawyers in the State and National Bar Associations than most states, but we are yet far behind what we should be. I trust every member of our State Association will join the American Bar Association. The Journal which it sends monthly to every member is alone worth far more than the membership fee and annual dues, which our last convention placed at \$10,

1. As it has not yet been found practicable for our State Association to publish a journal, as we had hoped, I recommend that the membership fee and annual dues, which our last convention placed at \$10, to take effect this year, be put back to \$5. Then, if and when we are able to publish a journal, we can either increase the dues or charge a separate subscription for the journal. I, therefore, recommend that Article XVII of our Constitution be amended to read as follows:

Article XVII. “The annual dues of members shall be five dollars, to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default.”

This amendment automatically makes the membership fee the same as the dues.

2. You will recall that as a result of the address by Hon. Louis C. Massey on common law pleading at our Orlando meeting, a committee consisting of Judge Massey, Judge R. C. Cockrell, and myself was appointed to draft and report a bill designated to simplify our pleadings in the respect pointed out in Judge Massey’s very able paper. The main idea was to eliminate motions for compulsory amendment, and to provide that all insufficiencies in a pleading can be reached by demurrer, and that surplusage, frivolous, irrelevant or impertinent matters could be reached by motion to strike, as at common law. Judge Massey carefully drafted such a bill in which the committee has concurred. I attach a copy of this bill, as this committee’s report, and recommend that it be endorsed by this Association and that a committee be appointed by the incoming President to secure the passage of this bill if possible by the next session of the Legislature. You will note that the bill is so drawn as to make as little change as possible in the existing statute to effect the purpose desired.

3. I recommend that the Association instruct the Committee on Judicial Administration and Legal Reform, to be appointed for the coming year, to make a special study of our present court rules and procedural statutes, and prepare and recommend to the next annual meeting such changes or amendments as they may deem wise and necessary to the simplification and improvement of our system of practice

and procedure, and so as to promote a speedier termination of litigation on the merits, but without any sacrifice of those well-tested fundamental principles of common law pleading which are designed to clarify the issues and make certain and definite the real matters at issue between the parties. The main features of common law pleading are scientific, practical, and should be preserved. I think Judge Massey's bill is an important step in that direction. It removes a statutory excrescence which has retarded rather than helped. My personal opinion is that while our system is not perfect, most of "the law's delays" in this State are due, not so much to defects in procedure, as to overworked and underpaid judges.

4. Permit me to recommend that our Association again go on record in favor of an additional increase in the salaries of our Supreme and Circuit Court Judges. The last Legislature made some, but not an adequate, increase. We are "saving at the spigot and wasting at the bung" when we pay our Judges such inadequate compensation.

5. The past year witnessed three forward steps in the administration of justice in this State: (1) The adoption of the "judicial amendment" to our Constitution by which additional circuit judges may be appointed in circuits having over 75,000 population; (2) The conference of Circuit Judges called by the Governor to consider improvements in the law, and their recommendations, and (3) the recent decision of our Supreme Court upholding the constitutionality of the statutes providing that the Governor may send a judge from one circuit to another to help in the work in such circuit and that they can both work and exercise jurisdiction at the same time, under the plan provided in the statute. This last development was based on a test case brought and argued by a committee appointed by the Dade County Bar Association, the oral argument having been presented by Mr. W. I. Evans, of Miami. The decision in this case was most fortunate for this and other circuits where the dockets are, or may become, congested.

The judicial amendment was strongly endorsed by this Association at its meeting last June. The Jacksonville Bar, feeling keenly the need of an additional judge, appointed a strong committee, headed by Scott M. Loftin, Esq., to work for the adoption of the amendment. This committee did very fine and effective work. I cooperated with this committee to the best of my ability, issuing a statement which was published throughout the State. I also accepted an invitation to address the South Florida Press Association in their convention at Lakeland early in October on this subject. The lawyers generally were strongly in favor of it—and the people, for whose benefit it was proposed, adopted it by a large majority at the November election. I have not time to discuss the many good things in the recommendations made by the conference of the Circuit Judges. The Governor is to be commended for issuing the call for this conference. There is, however, one excellent recommendation that I cannot refrain from commending. It has to do with that all-important institution—our jury system. The judges recom-

mended that the selection of the jurors be taken entirely out of politics, that is, out of the hands of any political body, and that the duty of making the jury roll and filling the jury box be entrusted to a jury commission of three non-office-holding citizens of high standing in each of the counties, to be appointed by the Governor. This plan has proven beneficial in Alabama and Texas. They might well have gone a step further and provided that all jurors' names should be drawn from the box, and that in making up deficiencies caused by excuses or otherwise, double the number of extra jurors needed should in all cases be drawn from the box and the Judge given the right to replace the names of such as live more than two miles from the court house, and the sheriff be authorized to summon the extra jurors by telephone, or in person, verbally, or in writing. In this way enough jurors could be promptly secured to fill out the panel and in a manner free from all opportunity for favoritism or discrimination, and the professional juror would have to hunt another job. It is to be hoped that the legislature will adopt the suggestion of our judges in this as well as other respects.

6. Permit me to further recommend that we add to our standing committees one on "Uniform State Laws." There are several very worthy bills proposed by the National Conference of Commissioners on Uniform State Laws which should have the consideration of this convention, or at least of some committee to be authorized by it, in time if possible for presentation of such bills to the next session of the legislature. This matter has been brought to my attention by the Florida members of the National Conference.

7. Acting upon the urgent request of the National Secretary for immediate appointments, I appointed some weeks ago the following delegates to the Conference of Bar Association Delegates which meets as a part of the American Bar Association in Minneapolis the latter part of next August: Judge William Hunter, of Tampa, W. B. Shelby Crichlow, of Bradentown, alternate; Herman Ulmer, of Jacksonville, Judge Frank A. Smith, of Orlando, alternate; Hon. W. A. MacWilliams, of St. Augustine, J. E. D. Yonge, of Pensacola, alternate. I trust that Florida will be represented by a large attendance of lawyers at the Minneapolis Convention, and I want to be one of them.

8. It goes without saying that every decent lawyer in Florida ought to be a member of this Association. At the request of our Executive Council, I appointed during the winter a Committee on Membership in practically every county in the State; also one to use their best influence to promote the passage of our bill for the integration and regulation of the State Bar. Some of these committees were somnolent, some indifferent, and some active and enthusiastic. The best report of all came from Orlando. The committee there secured one hundred per cent of the local bar as members of the State Association. This was, indeed, refreshing. I carried on a large amount of correspondence with these committees, and I hope some good was accomplished for our bar bill also.

9. Realizing that there is and has been going on for quite a while in this country, through various organizations, papers and magazines, and by a substantial number of the teaching force in our schools and colleges, a propaganda against the American system of government, under which we live and have enjoyed such marvelous growth and development, a persistent assault upon our Constitution, and particularly the bills of rights and other constitutional limitations upon legislative power, the lawyers of this country—the men who have given their lives to the study of our constitutions and laws and who, more than any other class, perhaps, should understand and love our institutions—are waking up to the danger which threatens. I have not time to discuss this highly important matter at length, but permit me to say that the American Bar Association's Citizenship Committee have reached the conclusion that our schools furnish the strategic point at which to meet this insidious attack. Surely, of all places, our American schools are the most appropriate place to teach American principles. Not only must the appeal be to the intellect, but an atmosphere of genuine patriotism must be created. Gratitude, based on knowledge, must be developed, pride must be aroused, and devotion must be inspired.

I, therefore, recommend that the incoming President be directed to appoint a "Committee on American Citizenship," consisting of three members, to study how best this Association can aid in resisting these perverted assaults on our institutions and promote a true understanding of and love for our American system of government, our Constitution, federal and state, and our ideals.

Permit me to further recommend that such committee be instructed to use its best efforts to get adopted by the ensuing session of the legislature the following act, suggested by the Committee of the American Bar Association:

AN ACT TO REQUIRE THE TEACHING OF THE CONSTITUTION OF THE UNITED STATES AND OF THIS STATE, INCLUDING THE STUDY OF AND DEVOTION TO AMERICAN INSTITUTIONS AND IDEALS IN ALL THE PUBLIC SCHOOLS AND COLLEGES.

Be it enacted by the Legislature of the State of Florida:

SECTION 1. That on and after September 1, 1923, all schools and colleges in this State that are sustained or in any manner supported by public funds shall give instruction in the essentials of the United States Constitution, including the study of and devotion to American institutions and ideals, and no student in said schools and colleges shall receive a certificate of graduation without previously passing a satisfactory examination upon the provisions and principles of the United States Constitution.

SECTION 2. The instruction provided for in Section 1 of this Act shall be given for at least one year of the grammar, high school and college grades, respectively.

SECTION 3. That all persons hereafter applying for certificates authorizing them to become superintendents or teachers in the public schools of this State, shall, in addition to existing requirements and before receiving such certificate, be required to pass a satisfactory examination upon the provisions and principles of the Constitution of the United States and of this State.

SECTION 4. That wilful neglect or failure on the part of any public school superintendent, principal or teacher, or the president or teacher or other officer of any normal school or college, to observe and carry out the requirements of this Act, shall be sufficient cause for the dismissal or removal of such party from his or her position.

SECTION 5. It shall be the duty of the Superintendent of Public Instruction and of the Text Book Commission to make due arrangements for carrying out the provisions of this Act. For such purpose said Superintendent and Commission shall prescribe suitable texts adapted to the needs of the school and college grades as specified in Section 2 of this Act.

I might mention in this connection that some of our civic organizations are alive to this danger. The Miami Kiwanis Club, for instance, has decided to offer each year \$100 in gold for the three best essays on "The Constitution of the United States; an Embodiment of American Ideals," by the high school pupils of this county.

10. In conclusion, permit me to urge each of the members of this Association to use their best efforts and influence to get through the next session of the legislature our bill for the integration and regulation of the State Bar. It has been thoroughly agreed and threshed out by the past three annual conventions of this Association and has been endorsed by an almost unanimous vote each time. It passed the Senate at the last legislative session and would no doubt have passed the house had it been reached before the session closed. The sole purpose of this bill is to assist as far as possible in making a better, a cleaner, and an abler bar. It is a bill for the benefit of the people as a whole, as well as the members of the Bar. This bill should have the support of press and people. By it the members of the Bar, realizing the great responsibility which rests upon our profession, desire to raise its standards of honesty and efficiency to such an extent that to be a member of the Bar, and to hold a license to practice law, will be a badge of honor and a guarantee of square dealing and at least reasonable efficiency. If the legal profession is to be charged with the derelictions and inefficiency of its members, it should be given some authority over its members, some right to pass upon their qualifications and some power of discipline over those who prove recreant to the standard that the public insist the profession should maintain. Practically all powers vested by this bill are subject to supervision by our Supreme Court. Laws going much farther than this bill toward making the legal profession to some extent self-governing have been tried out elsewhere with eminent satisfaction to the lawyers and the public.

I heartily recommend that a strong committee be authorized and appointed by the incoming President to urge the adoption of this bill at the coming legislative session.

With cordial thanks for the able cooperation of our Executive Council, our Secretary and our Treasurer in my efforts to serve your interests during the past year, I render this report of my stewardship, and wish each of you and our beloved Association a better President and a better record for the coming year.

Faithfully yours,

ARMSTEAD BROWN,
President.

A BILL TO BE ENTITLED AN ACT RELATIVE TO THE PRACTICE CONCERNING DEMURRERS, AMENDMENTS AND MOTIONS TO STRIKE OUT PLEADINGS IN CASES AT LAW.

Be it enacted by the Legislature of the State of Florida:

SECTION 1. That all objections to pleadings, whether of substance or of form, shall be taken by demurrer, except as hereinafter provided in Section 4 of this Act.

The form of a demurrer shall be as follows or to the like effect: "The defendant (or plaintiff) says that the declaration (or plea) is not sufficient in law." And all the matters of substance or of form intended to be argued shall be stated, and if any demurrer shall be delivered without such statement or with a frivolous statement, it shall not open up the record nor be considered by the court.

No demurrer shall be filed unless it is verified by oath of the party, his agent or attorney, that it is not interposed for the purpose of delay, and unless it is also accompanied with a certificate of his attorney that he believes it to be well founded in law.

The form of a joinder in demurrer shall be as follows or to the like effect: "The plaintiff (or defendant) says that the declaration (or plea) is sufficient in law."

SECTION 2. The court on the hearing of any demurrer shall proceed and give judgment according as the very right of the cause and matters in law shall appear to it without regarding any imperfections, omissions or defects in the pleadings and proceedings, except those only which the party demurring shall specially and particularly set down and express in his demurrer, so as, however, sufficient matter appear in the pleadings upon which the court may give judgment according to the very right of the cause.

SECTION 3. Upon application of a party desiring to amend his pleadings or proceedings, the court shall at all times amend all defects therein, whether there is anything to amend by or not; and all such amendments shall be made with or without costs and upon such terms as the court may deem fit; and all such amendments as may be deemed necessary for the purpose of determining in the existing suit, the real

question in controversy between the parties shall be so made, provided due application be made to the court, but no motion for a compulsory amendment shall be allowed.

SECTION 4. Motions to strike out pleadings or part of a pleading shall be confined to such as the court might entertain by virtue of its inherent power at the common law, as for example: to strike out wholly irrelevant pleadings, pleadings lacking some formal requisite, frivolous or trifling pleadings, scandalous, impertinent or indecent language, surplusage and the like. The court may of its own motion strike out all such pleadings and matter.

SECTION 5. Sections 2627, 2629, 2630, 2638 and 2641 of the Revised General Statutes, and all laws inconsistent with this act are hereby repealed.

SECTION 6. The provisions of this Act shall not apply to any demurrer, motion to amend or motion to strike out pleadings made before this act shall take effect.

Secretary's Report

To the President and Members of the Florida State Bar Association :

I herewith submit my report as Secretary of your Association for the past year :

The Fifteenth Annual Session of the Association was held in Orlando, Florida, June 14th, 15th and 16th, 1922. The complete stenographic minutes of this meeting were compiled and printed under the direction of the Executive Council and distributed to all members of the Association. Copies were also sent to the other State Bar Associations in the country and to various Court and University libraries.

As reported at the last meeting, the membership at that time totalled 548. We have lost 25 members by death, resignation, removal and other causes, leaving the total of old members at 525. Fifty-eight new members have been elected by the Executive Council, making a total membership at the present time of 581. This does not include the members who may be elected at this meeting.

I am pleased to report that no complaints were received against any member of this Association during the year.

Pursuant to a resolution adopted at the last session the Secretary requested the Judges of all Florida Courts to suspend their respective Courts during the period of our Annual Convention. The Supreme Court and all of the Circuit Courts who answered my communication stated that they would be glad to so arrange their calendars that no attorney would be prevented from attending our meeting on account of court work.

A number of meetings of the Executive Council have been held during the year which the Secretary attended. At the direction of the Executive Council, the Proposed Bill to Regulate the Bar, together with a statement explaining its nature and purposes, was printed in pamphlet form and a copy mailed to every member of the State Legislature and to every newspaper in the State with a circulation which would warrant its publication. The press responded very satisfactorily to our request for publicity and, in almost every instance, published our statement in full with commanding headlines.

The program of the present meeting was printed a month in advance and mailed to all of our members. It might not be amiss to call the attention of the Association to the fact that the entire expense of printing this program has been assumed and paid by the National Surety Company. Except for their generosity it might not have been possible to have secured printed programs for our convention, and I wish to take the liberty to suggest that the Association thank the National Surety Company for this favor.

In addition to the above, your Secretary has attended to the routine correspondence and performed the other duties incident to his office.

Respectfully submitted,

HERMAN ULMER, *Secretary.*

Report of the Treasurer of the Florida State Bar Association to the Convention, 1923

Your Treasurer respectfully reports the following receipts and disbursements since his report to the Convention in Orlando in June, 1922:

Balance on hand as shown by last report..... \$851.92

Dues Collected

For the year 1918.....	\$ 55.00
For the year 1919.....	65.00
For the year 1920.....	95.00
For the year 1921.....	140.00
For the year 1922.....	910.00
For the year 1923.....	200.00

Total dues collected	\$1,465.00
From sale of extra copies of 1922 report.....	3.00
Interest on savings account.....	17.14

Total amount received \$2,337.06

Disbursements

Administrative expenses—

Reimbursement of Judge C. O. Andrews for traveling expenses, etc., incurred while President of the Association.....	\$ 106.75
For President Brown	2.65
For the Secretary's office.....	1,163.77
For the Treasurer's office.....	267.93
To Judge O. K. Reaves for traveling expenses to meeting of Executive Council.....	21.90
To Judge Henry D. Clayton for traveling expenses to Orlando Convention.....	19.31
Banquet, Orlando Convention.....	137.50
Music at Orlando Banquet.....	35.00

Total disbursements \$1,754.81

Balance on hand—	
Check not deposited	\$ 5.00
In checking account	144.51
In savings account	432.74

\$582.25

Outstanding obligations—

Balance due Arnold Printing Company on bill for printing Report of 1922 Convention	463.95
Net balance	\$118.30

The details of the expenditures for the Secretary's office are as follows:

Telegrams	\$ 6.50
Postage	81.65
Convention Register	1.75
Reporting proceedings of Orlando Convention.....	135.13
Printing, stationery, enclosing and mailing reports, etc.	101.24
Compensation	437.50
Payments on account of bill for printing Report of 1922 Convention	400.00
Total	\$1,163.77

The details of the expenditures for the Treasurer's office are as follows:

Printing billheads	\$ 7.84
1,000 Ledger sheets	1.25
Stamped envelopes	11.04
Compensation	225.00
Total	\$ 267.93

According to the books of the Treasurer, the following amounts are owing to the Association:

Dues for 1918.....	\$ 745.00
Dues for 1919.....	770.00
Dues for 1920.....	875.00
Dues for 1921.....	955.00
Dues for 1922.....	1,160.00
Total	\$4,505.00

In addition to the amount shown, 541 members owe dues for the year 1923, which are not regarded as owing until the meeting of the convention.

PHIL S. MAY.

Officers and Committees

1923-1924

President

E. P. AXTELL Jacksonville

Secretary

HERMAN ULMER Jacksonville

Treasurer

P. S. MAY Jacksonville

Vice-Presidents From Each Judicial Circuit

FRANCIS B. CARTER, 1st	Pensacola
F. B. WINTHROP, 2nd	Tallahassee
J. B. JOHNSON, 3rd	Live Oak
R. H. ANDERSON, 4th	Jacksonville
R. A. BURFORD, 5th	Ocala
W. B. S. CRICHLLOW, 6th	Bradentown
CARY H. LANDIS, 7th	DeLand
A. V. LONG, 8th	Palatka
H. H. WELLS, 9th	Chipley
G. EDWIN WALKER, 10th	Bartow
H. P. BRANNING, 11th	Miami
R. A. HENDERSON, JR., 12th	Fort Myers
N. B. K. PETTINGILL, 13th	Tampa
JOHN H. CARTER, 14th	Marianna
E. B. DONNELL, 15th	West Palm Beach
GEORGE P. GARRETT, 17th	Kissimmee

Executive Council

ARMSTEAD BROWN	Miami
O. K. REAVES	Tampa
FRED T. MYERS	Tallahassee
W. W. HAMPTON	Gainesville
E. P. AXTELL (ex-officio)	Jacksonville
HERMAN ULMER (ex-officio)	Jacksonville
P. S. MAY (ex-officio)	Jacksonville

Committee on Admissions

H. S. HAMPTON, <i>Chairman</i>	Tampa
PHILIP D. BEALL	Pensacola
ROBERT L. ANDERSON, JR.	Ocala
E. B. DONNELL	West Palm Beach
RANDALL ROWE	Madison

Committee on Judicial Administration and Legal Reform

JAMES F. GLEN, <i>Chairman</i>	Tampa
R. A. HENDERSON, JR.....	Ft. Myers
LeROY B. GILES.....	Orlando
FRED T. MYERS.....	Tallahassee
E. C. MAXWELL.....	Pensacola

Committee on Legal Education

L. R. RAILEY, <i>Chairman</i>	Miami
R. A. RASCO.....	Gainesville
LINCOLN HULLEY.....	DeLand
W. B. S. CRICHLow.....	Bradentown
HENRY W. BISHOP.....	Eustis

Committee on Grievances

F. P. FLEMING, <i>Chairman</i>	Jacksonville
GEO. P. GARRETT.....	Kissimmee
FRED FEE.....	Ft. Pierce
JNO. H. CARTER.....	Marianna
FRED BOTTS.....	Miami

Committee on Legal Biography

JUDGE C. O. ANDREWS, <i>Chairman</i>	Orlando
W. H. BAKER.....	Jacksonville
F. B. CARTER.....	Pensacola
W. W. DEWHURST.....	St. Augustine
PETER O. KNIGHT.....	Tampa

Committee on Ethics

GEORGE C. BEDELL, <i>Chairman</i>	Jacksonville
T. L. WILSON.....	Bartow
Alfred A. Green.....	Daytona
T. G. FUTCH.....	Leesburg
J. R. WELLS.....	Panama City

Committee on Uniform State Laws

WM. HUNTER, <i>Chairman</i>	Tampa
SCOTT M. LOFTIN.....	Jacksonville
L. C. MASSEY.....	Orlando
GEO. P. RAINEY.....	Tampa
N. B. PETTINGILL.....	Tampa

List of Members

Abbott, C. D.	West Palm Beach
Abrams, A. St. C.	Jacksonville
Adair, H. P.	Jacksonville
Adams, Thos. B.	Jacksonville
Adkins, A. Z.	Starke
Adkins, J. C.	Gainesville
Akerman, Alexander	Orlando
Alderman, F. C.	Fort Myers
Alexander, James E.	DeLand
Anderson, H. L.	Jacksonville
Anderson, Robert	Jacksonville
Anderson, R. L.	Ocala
Anderson, Robt. L., Jr.	Ocala
Andrews, Chas. O.	Orlando
Andrews, Guy A.	Tampa
Andrews, M. M.	Jacksonville
Atkinson, Edith M.	Miami
Atkinson, H. F.	Miami
Axelroad, Benjamin	Miami
Axtell, E. P.	Jacksonville
Baker, L. R.	West Palm Beach
Baker, R. A.	Jacksonville
Baker, W. H.	Jacksonville
Baldwin, L. W.	Jacksonville
Barco, Samuel J.	Miami
Barker, W. J.	Jacksonville
Barnes, Paul D.	Miami
Barringer, Harrison E.	Jacksonville
Barrs, Burton	Jacksonville
Baxter, Maxwell	Ft. Lauderdale
Baxter, E. G.	Gainesville
Baya, H. P.	Tampa
Beall, Philip D.	Pensacola
Beardall, William	Orlando
Bedell, G. C.	Jacksonville
Beggs, E. D.	Pensacola
Bell, A. H.	Green Cove Springs
Bell, Joseph	Ocala
Bell, J. D.	St. Petersburg
Bell, W. D.	Arcadia
Benson, Clifton D.	Miami
Benz, John J.	Miami
Billingsley, J. L.	Miami
Binkley, A. C.	Pensacola

Bird, Thos. B.	Monticello
Bird, John U.	Clearwater
—Bishop, H. W.	Eustis
Blackwell, C. D.	Live Oak
Blackwell, Joel N.	Palatka
Blakley, Norman N.	Miami
Blalock, J. W.	Jacksonville
Blanton, Frank W.	Miami
Booth, James	St. Petersburg
—Booth, Lee M.	Jacksonville
Borchardt, Samuel	Tampa
—Boswell, C. A.	Bartow
—Botts, Fred	Miami
Bowen, Crate D.	Miami
Boyer, C. A.	Orlando
Boyer, J. A.	Jacksonville
—Brady, J. W.	Bartow
Branning, H. P.	Miami
Brass, B. F.	Daytona
Bridges, Edward S.	Orlando
Brodie, Robt.	Tampa
—Brown, Armstead	Miami
Brown, M. M.	McClenny
Brown, R. E.	Arcadia
—Browne, Jefferson B.	Tallahassee
—Bryan, N. P.	Jacksonville
Bryan, W. J.	Miami
Buford, R. H.	Marianna
Bullock, R. B.	Ocala
Bunch, James H.	Jacksonville
—Burdine, R. F.	Miami
Burford, R. A.	Ocala
—Bussey, H. L.	West Palm Beach
—Bussey, James R.	St. Petersburg
Butler, F. W.	Jacksonville
Butler, J. T.	Jacksonville
Cadel, John S.	Kissimmee
Caldwell, H. S.	Live Oak
Calhoun, E. N.	St. Augustine
Calhoun, Julian C.	Palatka
Calkins, J. E.	Fernandina
Call, R. M.	Jacksonville
—Campbell, A. G.	DeFuniak Springs
Campbell, D. C.	Jacksonville
Campbell, Dan	DeFuniak Springs
Campbell, Patillo	Pensacola
—Carraballo, M.	Tampa
—Carlton, Doyle E.	Tampa

—Carmichael, M. D.	West Palm Beach
Carpenter, A. E.	Orlando
Carpenter, J. Howard	Ft. Pierce
Carson, J. M.	Miami
Carter, Dickson H.	Pensacola
Carter, F. B.	Pensacola
Carter, John H.	Marianna
Carter, Paul	Marianna
Cason, F. W.	Miami
Chancey, C. L.	Ft. Lauderdale
—Chillingworth, C. E.	West Palm Beach
Christie, W. McL.	Jacksonville
Clark, Frank	Gainesville
Clark, Frank, Jr.	Miami
—Clark, H. C.	Jacksonville
Clarke, S. D.	Monticello
—Clark, W. W.	Milton
Clarkson, Philip	Miami
Clarkson, P. Moody	Jacksonville
Clayton, H. D. (Honorary)	Montgomery, Ala.
Cobb, Randolph H.	Orlando
—Cockrell, Alston	Jacksonville
—Cockrell, A. W., Jr.	Jacksonville
Cockrell, Nathan	Jacksonville
Cockrell, R. S.	Gainesville
Cohen, M. H.	Tampa
Coleman, Geo. W.	West Palm Beach
Collum, J. T. M.	Bushnell
Cone, W. B.	MacClenny
Coogler, F. B.	Brooksville
Cook, Bayard S.	St. Petersburg
Cooper, C. M.	Jacksonville
Cooper, C. P.	Jacksonville
Cooper, J. C.	Jacksonville
—Cooper, J. C., Jr.	Jacksonville
Cooper, J. J. G.	Jacksonville
—Copp, Cyril C.	Jacksonville
Cowles, W. T.	Jacksonville
—Crawford, J. T. G.	Jacksonville
Crawford, W. B.	Orlando
Crews, A. S.	Starke
—Crichlow, W. B. S.	Bradentown
Crocker, O. Lamar	River Junction
Cubberly, F. C.	Gainesville
Currie, Geo. G.	West Palm Beach
Dame, H. J.	Inverness
—Daniel, R. P.	Jacksonville
Dart, Ernest	Jacksonville

Davant, J. C., Jr.	Brooksville
David, Salem K.	Jacksonville
Davidson, J. L.	Quincy
—Davis, E. W.	Orlando
Davis, F. H.	Tallahassee
Davis, R. C.	Orlando
Davis, R. E.	Gainesville
Davis, R. W.	Gainesville
Davis, W. B.	Perry
Decottes, Geo. A.	Sanford
DeVane, Dozier A.	Tallahassee
Dewell, Robt. T.	Jacksonville
—Dewhurst, W. W.	St. Augustine
Diamond, Sidney H.	Tallahassee
Dickinson, C. P.	Orlando
Dickinson, J. J.	Sanford
Diver, J. S.	Jacksonville
Dodge, J. W.	Jacksonville
Doggett, J. L.	Jacksonville
—Doggett, J. L., Jr.	Jacksonville
Doig, David H.	Jacksonville
—Donnell, E. B.	West Palm Beach
Drumwright, E. B.	Tampa
—Duncan, H. C.	Tavares
Dunkel, D. F.	West Palm Beach
Dunn, Edgar G.	St. Petersburg
Durrance, Chas.	Jacksonville
Durrance, F. M.	Jacksonville
Durrance, S. F.	Orlando
—Duval, L. W.	Ocala
Dye, Dewey A.	Bradentown
Edmondson, J. A.	Tallahassee
Edwards, G. C.	Cocoa
Edwards, John S.	Lakeland
—Ellis, T. B., Jr.	Gainesville
—Ellis, W. H.	Tallahassee
Evans, W. I.	Miami
Eyles, H. H.	Miami
Farley, W. B.	Marianna
Farrington, C. E.	Ft. Lauderdale
Farris, I. L.	Jacksonville
—Fee, Fred	Fort Pierce
Field, R. S.	Orlando
Fielding, Thos.	Gainesville
Fish, Bert	DeLand
Fitzgerald, T. E.	Daytona
—Fleming, C. S.	Jacksonville
—Fleming, F. P.	Jacksonville

Fletcher, D. U.	Jacksonville
— Flournoy, W. W.	DeFuniak Springs
— Foster, Stephen E.	Jacksonville
Franklin, J. A.	Jacksonville
— Frazier, Jos. W.	Tampa
Frazier, W. R.	Jacksonville
Freeland, W. L.	Miami
Frink, R. L.	Jasper
Futch, J. E.	Starke
— Futch, T. G.	Leesburg
— Gaines, J. B.	Leesburg
— Garrett, George P.	Kissimmee
Gaskins, Perse L.	Jacksonville
— Gautier, R. B.	Miami
Geiger, G. W.	Green Cove Springs
— Gibbons, Cromwell	Jacksonville
Gibbons, M. G.	Tampa
— Gibbs, G. C.	Jacksonville
Gibson, Lee S.	Tampa
— Giles, LeRoy B.	Orlando
Gillen, Guy	Lake City
— Gillespie, J. H.	Manatee
Givens, Morris	Tampa
— Glazier, H. S.	Bradentown
— Glen, Jas. F.	Tampa
Gober, Wm.	Ocala
Gomez, Authur	Key West
Gordon, Harry	Miami
Gordon, H. C.	Tampa
Graham, H. L.	Orlando
Graham, W. S.	Tampa
— Gramling, John C.	Miami
Gray, DeWitt T.	Jacksonville
Green, Alfred A.	Daytona
Gregory, E. P.	Quincy
— Guest, Lee	Jacksonville
— Hale, Eugene	Jacksonville
— Haley, D. G.	Jacksonville
Hall, Lewis M.	Miami
Hallowes, W. A., Jr.	Jacksonville
— Hamilton, F. P.	Jacksonville
Hamlin, R. P.	Tavares
Hammond, H. B. S.	Orlando
Hampton, E. B.	Gainesville
Hampton, H. M.	Ocala
— Hampton, H. S.	Tampa
— Hampton, W. W.	Gainesville
— Hampton, W. W., Jr.	Gainesville

Hamrick, R. E.	Okeechobee
Hardee, C. A.	Live Oak
—Harrell, J. F.	Live Oak
Harris, John D.	St. Petersburg
Hartridge, A. G.	Jacksonville
—Hartridge, J. E.	Jacksonville
Hartridge, Julian	Jacksonville
Hazeltine, A. H.	Miami
Heath, N. McK.	Miami
Hefferman, D. J.	Miami
—Heintz, Frank J.	Jacksonville
Hemmings, Frederick L.	Fort Pierce
—Hemphill, E. S.	Jacksonville
Henderson, J. W.	Tallahassee
Henderson, R. A., Jr.	Fort Myers
Henry, W. T.	Perry
Heiser, A. E.	Miami
Hilburn, S. J.	Palatka
Hill, Wm. L.	Washington, D. C.
Himes, W. F.	Tampa
Hocker, Wm.	Ocala
Hodgden, H. B.	DeLand
Hoffman, G. E.	Pensacola
Hogan, H. H.	Orlando
Holland, J. W.	Jacksonville
—Holland, S. L.	Bartow
Holt, F. M.	Jacksonville
Horn, Harry A.	Daytona Beach
—Householder, E. F.	Sanford
Houser, Wesley	West Palm Beach
—Howell, C. C.	Jacksonville
Howell, L. D.	Jacksonville
Howell, Theo. M.	Orlando
—Hudson, F. M.	Miami
Huffaker, R. B.	Bartow
Hull, D. C.	DeLand
Hulley, Lincoln	DeLand
—Hunter, Wm.	Tampa
Huntley, J. P.	Watertown
Hutchins, J. H.	Orlando
.. Hutchinson, Gov.	Jacksonville
.. Hutchinson, Robt. L.	Jacksonville
Ingram, F. P.	Dade City
Jackson, W. H.	Tampa
Jennings, F. E.	Jacksonville
Johnson, J. B.	Live Oak
Johnson, L. C.	Bartow
Johnston, Greene S., Jr.	Tallahassee

— Johnston, Pat.	Kissimmee
Jones, C. M.	Pensacola
— Jones, J. C.	Orlando
Jones, Jno. B.	Pensacola
— Jones, Lake	Jacksonville
— Jones, Joseph H.	Orlando
Jones, M. F.	Jacksonville
Jones, M. H.	Clearwater
Judson, C. D.	Lakeland
— Kay, W. E.	Jacksonville
Kehoe, J. W.	Pensacola
Kelly, J. R.	Madison
— Kelly, T. Payne	West Palm Beach
Kennedy, Wm.	Tavares
Kent, W. C.	Jacksonville
King, A. H.	Jacksonville
King, Roswell	Jacksonville
King, Wm. G.	St. Petersburg
Kloeppel, Robert	Jacksonville
— Knight, Albion W.	Jacksonville
Knight, Floyd	Miami
— Knight, P. O.	Tampa
Knight, R. D.	Jacksonville
— Knight, Telfair	Jacksonville
Knowles, C. L.	Key West
— Kurtz, E. B.	Miami
Kurtz, R. E.	Moore Haven
Kurz, L.	Jacksonville
Laird, H. S.	Milton
Lamb, J. P.	Palatka
— Lamson, Herbert	Jacksonville
Lane, Freeman P.	St. Petersburg
— Landis, Cary D.	DeLand
Larimore, G. L.	Tampa
Layton, C. R.	Gainesville
Leitner, George	Arcadia
Leitner, W. E.	Arcadia
Lemire, C. E.	Orlando
— L'Engle, E. J.	Jacksonville
L'Engle, John B.	Jacksonville
Lewis, A. E.	Marianna
— Lewis, G. F.	Milton
— Lewis, M. W.	Jacksonville
Lichliter, C. H.	Jacksonville
Liddell, W. W.	Jacksonville
Liddon, B. S.	Marianna
Lischkoff, Leon N.	Pensacola
Locke, E. O.	Jacksonville

— Loftin, Scott M.	Jacksonville
Long, A. V.	Palatka
— Long, Martin H.	Jacksonville
Love, E. C.	Quincy
— Lucas, T. E.	Tampa
Lunsford, J. J.	Tampa
Mabry, G. E.	Tampa
Madison, Wm. M.	Jacksonville
Macfarlane, Howard P.	Tampa
Macfarlane, Hugh C.	Tampa
MacFarlane, M. B.	Tampa
Maguire, K. F.	Orlando
MacWilliams, W. A.	St. Augustine
Magruder, C. C.	Orlando
Maines, Schelle	Sanford
Malone, Wm. H.	Key West
— Marks, R. P.	Jacksonville
Marks, Samuel R.	Jacksonville
Martin, E. H.	Ocala
Martin, G. C.	Brooksville
Martin, W. T.	Tampa
— Massey, L. C.	Orlando
Mathews, J. E.	Jacksonville
Mathews, S. M.	Jacksonville
— Maxwell, E. C.	Pensacola
— May, Phil. S.	Jacksonville
Merrill, Herman	St. Petersburg
McCaffery, Wm. T.	Jacksonville
McCauley, Gordon	Jacksonville
— McCollum, O. O.	Jacksonville
McConathy, R.	Ocala
McCord, Guyte P.	Tallahassee
McCoy, C. L.	West Palm Beach
— McGarry, Paul D.	Jacksonville
— McGeachy, R. A.	Milton
McIlvaine, Thos. W.	Jacksonville
— McKay, K. I.	Tampa
— McMullen, Alonzo B.	Tampa
McMullen, M. A.	Clearwater
McNamee, Robt.	Jacksonville
McNeill, A. D.	Jacksonville
Meginnis, B. A.	Tallahassee
Mellon, Fred H.	Ft. Myers
Merryday, H. C.	Palatka
Mershon, W. L.	Miami
Metcalfe, E.	Jacksonville
Middleton, D. K.	Panama City
Milam, A. Y.	Jacksonville

Milam, B. R.	Jacksonville
Milam, R. R.	Jacksonville
✓ Miller, A.	Jacksonville
Milton, L. R.	Jacksonville
Milton, W. H.	Marianna
Mitchell, E. W.	Jacksonville
Morgan, L. Z.	Jacksonville
✓ Morris, J. W., Jr.	Tampa
Morrow, C. J.	Miami
Murphey, W. M., Jr.	Orlando
Murrell, John M.	Miami
Myers, F. T.	Tallahassee
Neely, John L.	Miami
Nelson, L. W.	St. Augustine
Newell, Leigh G.	Orlando
Newman, Leonard B.	Titusville
Noble, Carl	Jacksonville
✓ Noble, Fred B.	Jacksonville
O'Bryan, Lewis	Kissimmee
Odlin, A. F.	San Juan, Porto Rico, U. S. District Court
Odom, A. H.	Palatka
✓ Odom, P. H.	Jacksonville
O'Kell, George M.	Miami
✓ Olliphant, H. K.	Bartow
✓ Olliphant, H. K., Jr.	Bartow
✓ Osborne, H. P.	Jacksonville
Oven, W. J.	Tallahassee
Owen, Crockett	St. Petersburg
Palmer, Allison E.	Orlando
Parker, Geo. F.	Okcechobee
Parker, Otis R.	Fort Pierce
Pasco, S., Jr.	Pensacola
Patterson, Giles	Jacksonville
Pattishall, W. A.	Orlando
Payne, Walter D.	Miami
Peacock, H. Blaine	Tampa
Peel, David	Melbourne
✓ Peeler, C. B.	Jacksonville
Peeler, J. M.	Jacksonville
Pelot, C. E.	Jacksonville
Penny, A. D.	Miami
Perkins, G. B.	Tallahassee
Perkins, Jas. W.	DeLand
✓ Perry, Wm. Y.	Sarasota
Pettibone, Frank A.	West Palm Beach
✓ Pettingill, N. B. K.	Tampa
Phillips, H. B.	Jacksonville
✓ Phillips, H. S.	Tampa

Phillips, W. F.	Chipley
Pope, F. W.	Daytona
Powell, G. M.	Jacksonville
Powers, C. A.	Jacksonville
Prevatt, P. G.	Miami
Price, Mitchell D.	Miami
Price, W. C.	Panama City
Price, W. H.	Miami
Ragland, Reuben	Jacksonville
Railey, L. R.	Miami
Ramsey, Maynard	Jacksonville
Rand, Frederick H., Jr.	Miami
Randall, R. W.	Fort Myers
Raney, Geo. P., Jr.	Tampa
Rasco, R. A.	DeLand
Raulerson, L. A.	Jacksonville
Reaves, O. K.	Tampa
Reese, R. P.	Pensacola
Register, Don.	Winter Haven
Reinstine, Harry	Jacksonville
Reynolds, J. C.	Jacksonville
Ricketson, J. E.	Orlando
Rigby, Geo. N.	Ormond Beach
Riley, Bart A.	Miami
Rinehart, C. D.	Jacksonville
Roberson, L. E.	Live Oak
Robineau, S. P.	Miami
Robles, F. M.	Tampa
Rogers, D. O.	Lakeland
Rogers, Walter F.	Jacksonville
Rogers, W. H.	Jacksonville
Rose, A. J.	Miami
Rouse, D. V.	Avon Park
Rowe, J. A.	Orlando
Rowe, R. H.	Madison
Rowland, W. R.	St. Petersburg
Rushton, Ray	Birmingham, Alabama
Rutherford, Geo. L.	Jacksonville
Sabel, Marx G.	Jacksonville
Safay, Emmett	Jacksonville
Sams, Murray	DeLand
Sandler, H. N.	Tampa
Sapp, J. M.	Panama City
Sawyer, Herbert S.	Sarasota
Scarlett, J. A.	DeLand
Scofield, G. W.	Inverness
Scott, Paul R.	Miami
Seldon, R. L.	Daytona Beach

Sellers, Roy V.	St. Petersburg
Semple, Edward L.	Miami
Shackleford, T. M., Jr.	Tampa
Sheppard, Wm. B.	Pensacola
Sheppard, Walter O.	Fort Myers
Sherman, G. M.	Orlando
Shields, Bayard B.	Jacksonville
Shine, C. L.	Pensacola
Shipp, Robt. L.	Miami
Sholtz, David	Daytona
Shutts, Frank B.	Miami
Simmons, J. P.	Miami
Singletary, J. B.	Bradentown
Small, A. B.	Miami
Smathers, Frank	Miami
Smith, Frank A.	Orlando
Smith, W. E.	Ocala
Smith, W. E. B.	Marianna
Smithdeal, Cyrus H.	Hastings
Smithwick, J. H.	Pensacola
Spain, Frank O., Jr.	Moore Haven
Sparkman, S. M.	Tampa
Sparkman, T. B.	Tampa
Spencer, Edwin, Jr.	Lakeland
Stapp, E. L.	Miami
Steed, M. J.	Kissimmee
Stephens, J. D.	Marianna
Stewart, I. A.	DeLand
Stewart, J. J.	Bradentown
Stewart, Tom. B.	DeLand
Stillman, R. E.	Jacksonville
Stockton, W. T.	Jacksonville
Stokes, J. Ed.	Panama City
Stokes, John P.	Pensacola
Stuart, A. T.	Tampa
Sturkie, R. B.	Dade City
Sullivan, J. J.	Pensacola
Sullivan, Jerry J., Jr.	Pensacola
Summerlin, A.	Winter Haven
Surrency, Winder	Jacksonville
Sutton, John B.	Tampa
Swearingen, J. J.	Bartow
Taylor, Harry G.	Bartow
Taylor, H. H.	Key West
Taylor, Paul C.	Miami
Taylor, R. R., Jr.	Miami
Teachy, A. Y.	Wauchula
Terrell, Glenn	Tallahassee

Thetford, A.	Sanford
Thomas, Elwyn	Fort Pierce
Thompson, C. F.	Tampa
Thompson, Paul S.	Quincy
Thompson, Uly O.	Miami
Tilden, Wilbur L.	Orlando
—Toomer, W. M.	Jacksonville
Trammel, Park M.	Lakeland
Trantham, Thos. S.	Ocala
Treadwell, E. D.	Arcadia
Treadwell, J. H.	Arcadia
Triplett, Jos. I., Jr.	Jacksonville
Tucker, Eppes, Jr.	Lakeland
Tucker, W. H.	Bradentown
Turnbull, Theo. T.	Monticello
—Turner, A. G.	Tampa
Ulmer, Herman	Jacksonville
—Upchurch, F. D.	Fernandina
Valz, Fred M.	Jacksonville
—Vans Agnew, P. A.	Orlando
Van Hoy, W. C.	Live Oak
Vetter, Paul	Jacksonville
Viney, John I.	St. Petersburg
Voorhis, H. M.	Orlando
Wade, Leonidas E.	Green Cove Springs
Wales, T. F.	Jacksonville
—Walker, G. Edwin	Bartow
Walker, G. W.	Tallahassee
—Walker, Stanton	Jacksonville
Wall, Jno. P.	Tampa
Walton, Judge V.	Palatka
Warfleet, Thos. B.	Miami
—Warlow, T. Picton	Orlando
Watson, E. A.	Jacksonville
Watson, J. W., Jr.	Miami
Watson, W. H.	Pensacola
Watson, Y. L.	Quincy
—Wells, G. B.	Plant City
Wells, H. H.	Chipley
Wells, J. R.	Panama City
West, Thos. F.	Tallahassee
Wetzel, Elmer	Miami
Whitaker, Karl E.	Tampa
Whitehurst, Geo. W.	Arcadia
Whitney, F. A.	Lakeland
Wideman, Frank	Jacksonville
—Wideman, Jerome E.	West Palm Beach
—Willard, Ben. C.	Miami

Williams, Bradford G.	Lakeland
Williams, Lawrence	Jacksonville
Williams, S. F.	Jacksonville
Wilson, Bradley C.	Bartow
Wilson, C. L.	Marianna
Wilson, Harold M.	Miami
Wilson, Milton D.	Bartow
Wilson, S. G.	Bartow
Wilson, T. L.	Bartow
Winters, Bert.	West Palm Beach
Winthrop, F. B.	Tallahassee
Withers, R. W.	Tampa
Worley, G. A., Jr.	Miami
Wright, Silas B.	DeLand
Yates, J. A.	Jacksonville
Yoemans, R. S.	West Palm Beach
Yonge, J. E.	Miami
Yonge, J. E. D.	Pensacola
Zacharias, I. A.	Jacksonville
Zeigler, John	West Palm Beach

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Members Classified by Cities and Towns

Arcadia

Bell, W. D.
Brown, R. E.
Leitner, George
Leitner, W. E.
Treadwell, E. D.
Treadwell, J. H.
Whitehurst, Geo. W.

Avon Park

Rouse, D. V.

Bartow

Boswell, C. A.
Brady, J. W.
Holland, S. L.
Huffaker, R. B.
Johnson, L. C.
Olliphant, H. K.
Olliphant, H. K., Jr.
Swearingen, J. J.
Taylor, Harry G.
Walker, G. Edwin
Wilson, Bradley C.
Wilson, S. G.
Wilson, Milton D.
Wilson, T. L.

Birmingham, Alabama

Rushton, Ray (Honorary)

Bradentown

Crichlow, W. B. S.
Dye, Dewey A.
Glazier, H. S.
Singletary, J. B.
Stewart, J. J.
Tucker, W. H.

Brooksville

Coogler, F. B.
Davant, J. C., Jr.
Martin, G. C.

Bushnell

Collum, J. T. M.

Chipley

Phillips, W. F.
Wells, H. H.

Clearwater

Bird, John U.
Jones, M. H.
McMullen, A. B.

Cocoa

Edwards, G. C.

Dade City

Ingram, F. P.
Sturkie, R. B.

Daytona

Brass, B. F.
Fitzgerald, T. E.
Green, Alfred A.
Pope, F. W.
Sholtz, David

Daytona Beach

Horn, Harry A.
Selden, R. L.

DeFuniak Springs

Campbell, A. G.
Campbell, Dan
Flournoy, W. W.

DeLand

Alexander, James E.
Fish, Bert
Hodgen, H. B.
Null, D. C.
Hulley, Lincoln
Landis, Cary D.
Perkins, Jas. W.
Rasco, R. A.
Sams, Murray
Scarlett, J. A.
Stewart, I. A.
Stewart, Tom B.
Wright, Silas B.

Eustia

Bishop, H. W.

Fernandina

Calkins, J. E.

Upchurch, F. D.

Fort Lauderdale

Baxter, Maxwell

Chancey, C. L.

Farrington, C. E.

Fort Myers

Alderman, F. C.

Henderson, R. A., Jr.

Mellon, Fred H.

Randall, R. W.

Sheppard, Walter O.

Fort Pierce

Carpenter, J. Howard

Fee, Fred

Hemmings, Frederick L.

Thomas, Elwyn

Parker, Otis R.

Gainesville

Adkins, J. C.

Baxter, E. G.

Clark, Frank

Cockrell, R. S.

Cubberly, F. C.

Fielding, Thos.

Davis, R. E.

Davis, R. W.

Ellis, T. B., Jr.

Hampton, E. B.

Hampton, W. W.

Hampton, W. W., Jr.

Layton, C. R.

Green Cove Springs

Bell, A. H.

Geiger, G. W.

Wade, Leonidas W.

Hastings

Smithdeal, Cyrus H.

Inverness

Dame, H. J.

Scofield, G. W.

Jacksonville

Abrams, A. St. C.

Adair, H. P.

Adams, Thos. B.

Anderson, H. L.

Anderson, Robert

Andrews, M. M.

Axtell, E. P.

Baker, R. A.

Baker, W. H.

Baldwin, L. W.

Barker, W. J.

Barringer, Harrison E.

Barrs, Burton

Bedell, G. C.

Blalock, J. W.

Booth, Lee M.

Boyer, J. A.

Bryan, N. P.

Bunch, James H.

Butler, F. W.

Butler, J. T.

Call, R. M.

Campbell, D. C.

Christie, W. McL.

Clarkson, P. Moody

Cockrell, A. W., Jr.

Cockrell, Alston

Cockrell, Nathan

Cooper, C. M.

Cooper, C. P.

Cooper, J. C.

Cooper, J. C., Jr.

Cooper, J. J. G.

Copp, Cyril C.

Cowles, W. T.

Crawford, J. T. G.

Daniel, R. P.

Dart, Ernest

David, Salem K.

Dewell, Robt. T.

Diver, J. S.

Dodge, J. W.

Doggett, J. L.

Doggett, J. L., Jr.

Doig, David H.

Durrance, Chas.

Durrance, F. M.

- Farris, I. L.
Fleming, C. S.
Fleming, F. P.
Fletcher, D. U.
Foster, Stephen E.
Franklin, J. A.
Frazier, W. R.
Gaskins, Perse L.
Gibbs, G. C.
Gibbons, Cromwell
Gray, DeWitt T.
Guest, Lee
Hale, Eugene
Haley, D. G.
Hallowes, W. A., Jr.
Hamilton, F. P.
Hartridge, A. G.
Hartridge, Julian
Hartridge, J. E.
Heintz, F. J.
Hemphill, E. S.
Holland, J. W.
Holt, F. M.
Howell, C. C.
Howell, L. D.
Hutchinson, Gov.
Hutchinson, Robt. L.
Jennings, F. E.
Jones, Lake
Jones, M. F.
Kay, W. E.
Kent, W. C.
King, A. H.
King, Roswell
Kloeppe, Robert
Knight, Albion W.
Knight, R. D.
Knight, Telfair
Kurz, L.
Lamson, Herbert
L'Engle, E. J.
L'Engle, John B.
Lewis, M. W.
Lichliter, C. H.
Liddell, W. W.
Locke, E. O.
Loftin, Scott M.
Long, Martin H.
Madison, Wm. M.
Marks, R. P.
Marks, Samuel R.
Mathews, J. E.
Mathews, S. M.
May, Phil S.
McCaffery, Wm. T.
McCauley, Gordon
McCollum, O. O.
McGarry, Paul D.
McIlvaine, Thos. W.
McNamee, Robt.
McNeill, A. D.
Metcalf, Ernest
Milam, A. Y.
Milam, B. R.
Milam, R. R.
Miller, A.
Milton, L. R.
Mitchell, E. W.
Morgan, L. Z.
Noble, Carl
Noble, Fred B.
Odom, P. H.
Osborne, H. P.
Patterson, Giles
Peeler, C. B.
Peeler, J. M.
Pelot, C. E.
Phillips, H. B.
Powell, G. M.
Powers, C. A.
Ragland, Reuben
Ramsey, Maynard
Raulerson, L. A.
Reinstine, Harry
Reynolds, J. C.
Rinehart, C. D.
Rogers, Walter F.
Rogers, W. H.
Rutherford, Geo. L.
Sabel, Marx G.
Safay, Emmett
Shields, Bayard B.
Stillman, R. E.
Stockton, W. T.
Surrency, Winder
Toomer, W. M.

Triplett, Jos. I., Jr.
 Valz, Fred M.
 Vetter, Paul
 Ulmer, Herman
 Wales, T. F.
 Walker, Stanton
 Watson, E. A.
 Wideman, Frank
 Williams, Lawrence
 Williams, S. F.
 Yates, J. A.
 Zacharias, I. A.

Jasper

Frink, R. L.

Key West

Gomez, Arthur
 Knowles, C. L.
 Malone, Wm. H.
 Taylor, H. H.

Kissimmee

Cadel, John S.
 Garrett, George P.
 Johnston, Pat
 O'Bryan, Lewis
 Steed, M. J.

Lake City

Brown, M. M.
 Gillen, Guy

Lakeland

Edwards, John S.
 Judson, C. D.
 Rogers, D. O.
 Spencer, Edwin, Jr.
 Trammel, Park M.
 Tucker, Eppes, Jr.
 Whitney, F. A.
 Williams, Bradford G.

Leesburg

Futch, T. G.
 Gaines, J. B.

Live Oak

Blackwell, C. D.
 Caldwell, H. S.

Hardee, C. A.
 Harrell, J. F.
 Johnson, J. B.
 Roberson, L. E.
 Vanhoy, W. C.

MacClenny

Cone, W. B.

Madison

Kelly, J. R.
 Rowe, R. H.

Manatee

Gillespie, J. H.

Marianna

Buford, R. H.
 Carter, John H.
 Carter, Paul
 Farley, W. B.
 Lewis, A. E.
 Liddon, B. S.
 Milton, W. H.
 Smith, W. E. B.
 Stephens, J. D.
 Wilson, C. L.

Melbourne

Peel, David

Miami

Atkinson, Edith M.
 Atkinson, H. F.
 Axleroad, Benjamin
 Barco, Samuel J.
 Barnes, Paul D.
 Bensen, Clifton D.
 Benz, John S.
 Billingsley, J. L.
 Blakley, Norman N.
 Blanton, W. F.
 Botts, Fred
 Bowen, Crate D.
 Branning, H. P.
 Brown, Armstead
 Bryan, W. J.
 Burdine, R. F.
 Carson, J. M.
 Cason, F. W.
 Clark, Frank, Jr.

Clarkson, Philip
Evans, W. I.
Eyles, H. H.
Freeland, W. L.
Gautier, R. B.
Gordon, Harry
Gramling, John C.
Hall, Lewis M.
Hazeltime, A. H.
Heath, N. McK.
Hefferman, D. J.
Heyser, A. E.
Hudson, F. M.
Knight, Floyd L.
Kurtz, E. B.
Mershon, W. L.
Morrow, C. J.
Murrell, John M.
Neely, John L.
O'Kell, Geo. M.
Payne, Walter D.
Penny, A. D.
Prevatt, P. G.
Price, Mitchell D.
Price, W. H.
Railey, L. R.
Rand, Frederic H., Jr.
Riley, Bart A.
Robineau, S. P.
Rose, A. J.
Scott, Paul R.
Semple, Edward L.
Shipp, Robt. L.
Shutts, Frank B.
Simmons, S. P.
Small, A. B.
Smathers, Frank
Stapp, E. L.
Taylor, Paul
Taylor, R. R., Jr.
Thompson, Uly O.
Warfleet, Thos. B.
Watson, S. W., Jr.
Wetzel, Elmer
Willard, Ben C.
Wilson, Harold M.
Warley, G. A., Jr.
Yonge, J. E.

Milton

Clark, W. W.
Laird, H. S.
Lewis, G. E.
McGeachy, R. A.

Montgomery, Ala.

Clayton, H. D. (Honorary)

Monticello

Bird, Thos. B.
Clarke, S. D.
Turnbull, Theo. T.

Moore Haven

Kurtz, R. E.
Spain, Frank O., Jr.

New York

DeVane, Dozier A.

Ocala

Anderson, R. L.
Anderson, Robt. L., Jr.
Bell, Joseph
Bullock, R. B.
Burford, R. A.
Duval, L. W.
Hampton, H. M.
Hocker, Wm.
Martin, E. H.
McConathy, R.
Smith, W. E.
Trantham, Thos. S.

Okeechobee

Hamrick, R. E.
Parker, Geo. F.

Orlando

Akerman, Alexander
Andrews, Chas. O.
Beardall, Wm.
Boyer, C. A.
Bridges, Edward S.
Carpenter, A. E.
Cobb, Randolph H.
Crawford, W. B.
Davis, E. W.
Davis, R. C.
Dickinson, C. P.

Durrance, S. E.
 Field, R. S.
 Giles, LeRoy B.
 Graham, H. R.
 Hammond, H. B. S.
 Hogan, H. H.
 Howell, Theo M.
 Hutchins, J. H.
 Jones, J. C.
 Jones, Joseph H.
 Lemire, C. E.
 Magruder, C. C.
 Maguire, R. F.
 Massey, L. C.
 Murphy, Wm., Jr.
 Newell, Leigh G.
 Palmer, Allison E.
 Pattishall, W. A.
 Ricketson, J. E.
 Rowe, J. A.
 Sherman, G. M.
 Smith, Frank A.
 Tilden, Wilbur L.
 Vans Agnew, P. A.
 Voorhis, H. M.
 Warlow, T. Picton

Ormond Beach

Rigby, Geo. N.

Palatka

Blackwell, Joel N.
 Calhoun, Julian C.
 Hilburn, S. J.
 Lamb, J. P.
 Long, A. V.
 Merryday, H. C.
 Odom, A. H.
 Walton, Judge V.

Panama City

Middleton, D. K.
 Price, W. C.
 Sapp, J. M.
 Stokes, J. Ed.
 Wells, J. R.

Pensacola

Beall, Philip D.
 Beggs, E. D.

Binkley, A. C.
 Campbell, Patillo
 Carter, Dickson H.
 Carter, F. B.
 Hoffman, G. E.
 Jones, C. M.
 Jones, Jno. B.
 Kehoe, J. W.
 Lischkoff, Leon N.
 Maxwell, E. C.
 Pasco, S., Jr.
 Reaves, R. P.
 Sheppard, Wm. B.
 Shine, C. L.
 Smithwick, J. H.
 Stokes, John P.
 Sullivan, J. J.
 Sullivan, Jerry J., Jr.
 Watson, W. H.
 Yonge, J. E. D.

Perry

Davis, W. B.
 Hendry, W. T.

Plant City

Wells, G. B.

Quincy

Davidson, J. L.
 Gregory, E. P.
 Love, E. C.
 Thompson, Paul S.
 Watson, Y. L.

River Junction

Crocker, O. Lamar

Sanford

DeCottes, Geo. A.
 Dickinson, J. J.
 Householder, E. F.
 Maines, Schelle
 Thetford, A.

San Juan, Porto Rico

Odlin, A. F.

Sarasota

Perry, Wm. Y.
 Sawyer, Herbert S.

Sebring

Andrew, Guy A.

Starke

Adkins, A. Z.

Crews, A. S.

Futch, J. E.

St. Augustine

Calhoun, E. N.

Dewhurst, W. W.

Dunham, David R.

MacWilliams, W. A.

Nelson, L. W.

St. Petersburg

Bell, J. D.

Booth, James

Bussy, Jas. R.

Cook, Bayard S.

Dunn, Edgar G.

Harris, John D.

King, Wm. G.

Lane, Freeman P.

Merrell, Herman

Owen, Crockett

Rowland, W. R.

Sellers, Roy V.

Viney, John I.

Wilson, E. F.

Tallahassee

Browne, Jefferson B.

Davis, F. H.

Diamond, Sidney H.

Edmundson, J. A.

Ellis, W. H.

Henderson, J. W.

Johnston, Greene S., Jr.

McCord, Guyte P.

Meginnis, B. A.

Myers, F. T.

Oven, W. J.

Perkins, G. B.

Terrell, Glenn

Walker, G. W.

West, Thos. F.

Winthrop, F. B.

Tampa

Baya, H. P.

Borchardt, Samuel

Brodie, Robt.

Caraballo, M.

Carlton, Doyle E.

Cohen, M. H.

Drumwright, E. B.

Frazier, Jos. W.

Glenn, Jas. F.

Gibbons, M. G.

Gibson, Lee S.

Givens, Morris

Gober, William

Gordon, H. C.

Graham, H. S.

Hampton, H. S.

Himes, J. F.

Hunter, Wm.

Jackson, W. H.

Knight, P. O.

Larimore, G. L.

Lucas, T. E.

Lunsford, J. J.

Mabry, G. E.

Macfarlane, Hugh C.

Macfarlane, Howard P.

MacFarlane, M. B.

Martin, W. T.

McKay, K. I.

McMullen, Alonzo B.

Morris, J. W., Jr.

Peacock, H. Blaine

Pettingill, N. B. K.

Phillips, H. S.

Raney, Geo. P., Jr.

Reaves, O. K.

Robles, F. M.

Sandler, H. N.

Shackleford, T. M., Jr.

Sparkman, S. M.

Sparkman, T. B.

Stuart, A. T.

Sutton, John B.

Thompson, C. F.

Turner, A. G.

Wall, Jno. P.

Whitaker, Karl E.

Withers, R. W.

Tavares

Duncan, H. C.

Hamlin, R. P.

Kennedy, Wm.

Titusville

Newman, Leonard B.

Washington, D. C.

Clark, H. C.

Hill, Wm. L.

Watertown

Huntley, J. P.

Wauchula

Teachy, A. Y.

West Palm Beach

Abbott, C. D.

Baker, L. R.

Bussey, H. L.

Carmichael, M. D.

Chillingworth, C. E.

Coleman, Geo. W.

Currie, Geo. G.

Donnell, E. B.

Dunkel, D. F.

Houser, Wesley

Kelly, T. P.

McCoy, C. L.

Pettibone, Frank A.

Reese, Paschal C.

Wideman, Jerome E.

Winters, Bert

Yoemans, R. S.

Zeigler, John

Winter Haven

Register, Don.

Summerlin, A.

List of Former Presidents

ROBERT L. ANDERSON, Ocala, Florida.....	1907-08
FRED T. MYERS, Tallahassee, Florida.....	1908-09
E. B. GUNBY, Tampa, Florida.....	1909-10
JEFFERSON B. BROWNE, Key West, Florida.....	1910-11
W. A. BLOUNT, Pensacola, Florida.....	1911-12
GEORGE C. BEDELL, Jacksonville, Florida.....	1912-13
W. A. MACWILLIAMS, St. Augustine, Florida.....	1913-14
W. H. PRICE, Miami, Florida.....	1914-15
THOMAS F. WEST, Tallahassee, Florida.....	1915-16
NATHAN P. BRYAN, Jacksonville, Florida.....	1916-17
WILLIAM HUNTER, Tampa, Florida.....	1917-19
W. H. ELLIS, Tallahassee, Florida.....	1919-20
O. K. REAVES, Bradentown, Florida.....	1920-21
C. O. ANDREWS, Orlando, Florida.....	1921-22
ARMSTEAD BROWN, Miami, Florida.....	1922-23
E. P. AXTELL, Jacksonville, Florida.....	1923-24

List of Meeting Places

- 1907—Jacksonville, Florida.
- 1908—Atlantic Beach, Florida.
- 1909—St. Augustine, Florida.
- 1910—Tampa, Florida.
- 1911—Pensacola, Florida.
- 1912—Jacksonville, Florida.
- 1913—Miami, Florida.
- 1914—Tallahassee, Florida.
- 1915—Atlantic Beach, Florida.
- 1916—Atlantic Beach, Florida.
- 1917—Jacksonville, Florida.
- 1918—No meeting held because of World War.
- 1919—Atlantic Beach, Florida.
- 1920—Jacksonville, Florida.
- 1921—Jacksonville, Florida.
- 1922—Orlando, Florida.
- 1923—Miami, Florida.

Directory of Local Bar Associations

Alachua County Lawyers' Club

President, Robert E. Davis, Gainesville, Florida.

Secretary, T. B. Ellis, Jr., Gainesville, Florida.

Bar Association Seventeenth Circuit

President, E. W. Davis, Orlando, Florida.

Secretary, G. P. Garrett, Kissimmee, Florida.

Brooksville Bar Association

President, G. V. Ramsey, Brooksville, Florida.

Secretary, Hugh Hale, Brooksville, Florida.

Dade County Bar Association

President, Armstead Brown, Miami, Florida.

Secretary, L. Earl Curry, Miami, Florida.

East Volusia County Bar Association

President, W. F. Pope, Daytona, Florida.

Secretary, David Sholtz, Daytona, Florida.

Hillsborough County Bar Association

President, W. M. Taliaferro, Tampa, Florida.

Secretary, L. L. Parks, Tampa, Florida.

Key West Bar Association

President, G. B. Patterson, Key West, Florida.

Secretary, W. Hunt Harris, Key West, Florida.

Jacksonville Bar Association

President, John C. Cooper, Jr., Jacksonville, Florida.

Secretary, Max Sabel, Jacksonville, Florida.

Lake County Bar Association

President, H. C. Duncan, Tavares, Florida.

Secretary, W. M. Kennedy, Tavares, Florida.

Lee County Bar Association

President, Frank C. Alderman, Fort Myers, Florida.

Secretary, R. A. Henderson, Jr., Fort Myers, Florida.

Manatee County Bar Association

President, J. J. Stewart, Bradentown, Florida.

Secretary, H. S. Glazier, Bradentown, Florida.

Orange County Bar Association*President, L. C. Massey, Orlando, Florida.**Secretary, LeRoy B. Giles, Orlando, Florida.***Palm Beach County Bar Association***President, M. D. Carmichael, West Palm Beach, Florida.**Secretary, John Zeigler, West Palm Beach, Florida.***Pensacola Bar Association***President, C. M. Jones, Pensacola, Florida.**Secretary, John M. Coe, Pensacola, Florida.***Pinellas County Bar Association***President, Thomas Hamilton, Clearwater, Florida.**Secretary, John D. Harris, St. Petersburg, Florida.***Polk County Bar Association***President, John J. Swearingen, Bartow, Florida.**Secretary, C. M. Wiggins, Bartow, Florida.***St. Johns County Bar Association***President, W. A. MacWilliams, St. Augustine, Florida.**Secretary, P. R. Perry, St. Augustine, Florida.***St. Lucie County Bar Association***President, Otis R. Parker, Fort Pierce, Florida.**Secretary, Elwyn Thomas, Fort Pierce, Florida.***Seminole County Bar Association***President, Thomas E. Wilson, Sanford, Florida.**Secretary, Schelle Maines, Sanford, Florida.*

Constitution and By-Laws of the Florida State Bar Association

NAME

ARTICLE I. This Association shall be known as "The Florida State Bar Association."

OBJECT

ARTICLE II. The Association is formed to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold the standard of integrity, honor and courtesy in the legal profession, to encourage legal education, and to cultivate a spirit of cordiality and brotherhood among the members of the Bar.

MEMBERSHIP

ARTICLE III. The members of the legal profession of the State of Florida attending this convention, this fifth day of February, 1907, are hereby declared to be members of this Association, provided they shall, during its present session, sign this Constitution and pay the admission fee hereinafter provided.

Any other member of the legal profession in good standing, residing or practicing in the State of Florida, who shall have been at the Bar of this State for at least one year, may become a member upon nomination and vote of the Association or action of its Committee on Admission, as hereinafter provided.

ELECTION OF MEMBERS

ARTICLE IV. Application for membership may be made to the President of the Association, and be by him at once reported to the Committee on Admission, which shall thereupon examine the same and report thereon with its recommendation to the Association at its next annual meeting or to the next meeting of the Executive Council, whichever occurs first. The members of the Association or of the Executive Council at such meeting shall thereupon vote on said application. Such vote may be either by ballot or *vive voce*. When applications are referred to an annual meeting of the Association, one negative vote in every five shall defeat an election. When referred to a meeting of the Executive Council, one vote in the negative shall defeat an election.

OFFICERS

ARTICLE V. The officers of the Association shall be a President, who shall be ineligible to reelection on the expiration of his term; one Vice-President from each judicial circuit represented by membership in

the Association; a Secretary and a Treasurer. All of these shall be elected at the annual meeting and hold their offices until the next annual meeting of the Association, and until their successors are elected. A majority of the vote cast at such annual meeting shall be necessary to the election of officers, including the election of the Executive Council, and shall in all cases be by ballot.

COMMITTEES

ARTICLE VI. At the annual meeting the Association shall also elect an Executive Council, to be composed of four members, of which council the President, Secretary and Treasurer shall be members ex-officio. Said members of the Executive Council shall hold their offices for one year from the date of their election, and until their successors are elected.

The President shall, with the approval of the Executive Council, appoint the following standing committees, to-wit:

A Committee on Admissions.

A Committee on Judicial Administration and Legal Reform.

A Committee on Legal Education.

A Committee on Grievances.

A Committee on Legal Biography.

A Committee on Ethics.

A Committee on Uniform State Laws.

If any member of a standing committee shall fail to attend any annual meeting, his absence shall create a vacancy, and the President of the Bar Association may, in his discretion, fill such vacancy by appointment.

Each standing committee shall be composed of five members of the Association, and a majority of the members of each of said committees shall constitute a quorum to transact business.

Each committee shall, at each annual meeting, report in writing a summary of its proceedings since the last annual report, together with any suggestions deemed suitable and pertinent to its powers, duties or business.

A general summary of all such annual reports and the proceedings of the annual meeting shall be prepared and printed by and under the direction of the Executive Council, together with the Constitution, By-Laws, names and residences of officers, standing committees and members of the Association, as soon as practicable after such annual meeting.

PRESIDENT

ARTICLE VII. The President, or in his absence the Senior Vice-President in age, present, shall preside at all meetings of the Association, and the President shall deliver an address at the opening of the annual meeting next after his election.

EXECUTIVE COUNCIL

ARTICLE VIII. This council shall manage the business and affairs of the Association subject to the provisions of the Constitution and By-Laws, and shall be vested with the title to all its property as trustees thereof, until the Association shall be incorporated, and if incorporated shall have power to accept the act of incorporation for and on behalf of the corporation and all its members, and shall prepare and propose such By-Laws for the Association, in addition to those adopted by it at its first session, as said committee shall deem expedient, which when adopted by any annual meeting of this Association, shall become part of the By-Laws of the same.

COMMITTEE ON ADMISSION

ARTICLE IX. It shall be the duty of this committee to examine into the qualifications of every candidate proposed to the President for admission into this Association and to report thereon with recommendations to the next annual meeting of this Association or the next meeting of the Executive Council, whichever first occurs. The proceedings of this committee shall be deemed confidential and shall be kept secret except so far as the report or recommendation of the same shall be necessarily and officially made to the Association or the Executive Council.

COMMITTEE ON JUDICIAL ADMINISTRATION AND REFORM

ARTICLE X. It shall be the duty of this committee to take notice of all proposed changes of the law, and to consider and report to this Association such amendments of the law as in its opinion should be adopted, and also to observe the practical working of the judicial system throughout the State, and recommend by written or printed report, from time to time, any changes which observation or experience may suggest should be made therein.

COMMITTEE ON LEGAL EDUCATION

ARTICLE XI. It shall be the duty of this committee to examine and report upon any proposed changes in the system of legal education, and shall make such suggestions as shall seem pertinent thereto, also to examine the practical workings of the present law in regard to the admission of members of the Bar to practice in this State, and to make such suggestions in relation to the same as the committee shall deem advisable.

The Committee on Education may cause exception to be filed, and prosecute at the expense of the Association, to the admission to the Bar of all persons whom the said committee believes are not qualified to be admitted.

COMMITTEE ON GRIEVANCES

ARTICLE XII. This committee shall receive and hear all complaints preferred by any member of this Association against any other member for misconduct in his relations to the Association or in his profession, or affecting interests of the legal profession, the practice of the law, and the administration of justice; provided said complaints shall be in writing, plainly and specifically stating the matter complained of, and subscribed by the complainant.

All complaints so made shall be considered and disposed of by this committee in the manner provided in the By-Laws.

The proceedings of this committee shall be deemed confidential and kept secret except so far as written or printed reports of the same shall be necessarily and officially made to the Association.

COMMITTEE ON LEGAL BIOGRAPHY

ARTICLE XIII. The Committee on Legal Biography shall provide for the preservation, among the archives of the Association, of suitable printed or written memorials of the lives and characters of deceased members of the Florida Bar.

COMMITTEE ON ETHICS

ARTICLE XIV. The Committee on Ethics shall consider and report, from time to time, such matters bearing upon the Ethics of the profession as to the committee shall deem good.

COMMITTEE ON UNIFORM STATE LAWS

ARTICLE XV. It shall be the duty of this committee to assist in promoting uniformity of legislation among the several states and to that end to examine such uniform acts as have been or may be approved by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association and report to each annual meeting of this Association such acts as in the judgment of the committee should be enacted into law in this State.

SECRETARY

ARTICLE XVI. The Secretary shall keep the records and conduct the correspondence of the Association and perform the usual duties of such office.

TREASURER

ARTICLE XVII. The Treasurer shall collect, and by order of the Executive Council disburse, all funds of the Association, keep regular accounts, which at all times shall be open to the inspection of any member of the Executive Council, and shall make annual reports

of all the same to this Association. The Treasurer shall give bond in such sum as the Executive Council shall decide; the cost of suretyship to be paid by the Association. All funds of the Association shall be deposited in its name, in such bank or other financial institution as the Executive Council shall select.

DUES

ARTICLE XVIII. The annual dues of members shall be five dollars, to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default.

EXPULSIONS

ARTICLE XIX. Any member may be suspended or expelled by a two-thirds vote of this Association at any annual meeting for misconduct in relation to the Association or in his profession, after conviction thereof, by such method of procedure as may be prescribed by the By-Laws.

FINAL ACTION

ARTICLE XX. No action of this Association of a permanent nature or recommending changes in the law or administration of justice, shall be had until the subject-matter thereof shall have been reported upon by the appropriate committee, to which the same shall have been referred, unless this regulation shall be suspended by a two-thirds vote of the members voting thereon.

ANNUAL MEETING

ARTICLE XXI. This Association shall meet annually, at such time and place as the Executive Council may select, and at such other times and places in accordance with the By-Laws. It shall be the duty of the Secretary to mail to each member a written or printed notice of the time and place of each annual or special meeting, at least ten days in advance of such meeting. Those present at such meeting shall constitute a quorum, provided that at any special meeting not less than fifteen members shall constitute a quorum.

AMENDMENTS

ARTICLE XXII. This Constitution may be altered or amended at any annual meeting on recommendation of the Executive Council, by a vote of the majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

VACANCIES

ARTICLE XXIII. The President shall have power to fill vacancies that may occur, appointees to hold until the next meeting of the Association.

PAPERS AND ADDRESSES

ARTICLE XXIV. The President shall select some person to make an address at the next annual meeting, on some subject to be selected by said person pertinent to the objects of this Association, and also not exceeding five members of the Association who shall be requested to prepare and read papers at such meeting.

AMENDMENT OF BY-LAWS

ARTICLE XXV. The By-Laws may be altered or amended at any annual meeting on recommendation of the Executive Council by a vote of a majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

By-Laws**MEETINGS OF THE ASSOCIATION**

I. The Order of Business of the annual meetings shall be as follows:

- (a) Annual address of the President.
- (b) Report of Committee on Admission and Election of Members.
- (c) Report of the Secretary.
- (d) Report of the Treasurer.
- (e) Report of Standing Committees as follows:
 - Executive Council.
 - On Judicial Administration and Legal Reform.
 - On Legal Education.
 - On Grievances.
 - On Legal Biography.
 - On Ethics.
 - On Uniform State Laws.
- (f) Reports of Special Committees.
- (g) The appointment of Standing Committees.
- (h) Miscellaneous Business.
- (i) The Nomination and Election of Officers.

The address to be delivered by the person invited by the President shall be at the morning session of the second day of the annual meeting, and the reading of papers by the members appointed to read the same shall be on the same day, unless the President shall designate some other time for the address and reading of papers. After the reading of each paper, an opportunity shall be given for discussion on the topic of the paper.

II. No person taking part in a discussion shall speak more than ten minutes at a time or more than twice on one subject, without the consent of the Association.

PRIVILEGE OF THE FLOOR

III. At any of the meetings of the Association, members of the Bar of any foreign country or of any State other than Florida, may be admitted to the privilege of the floor during any such meetings.

PAPERS, PRINTING OF SAME, ETC.

IV. All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of committees and all proceedings at the annual meeting shall be printed; but no other address or paper read shall be printed except by order of the Executive Council. The Executive Council, as a Committee on Publication, shall meet within one month after each annual meeting, at such time and place as its chairman shall appoint, to perform the above duties.

TERM OF OFFICE OF OFFICERS AND MEMBERS OF COMMITTEES

V. The term of office of all officers, including the Executive Council, elected at any annual meeting, shall commence at the adjournment of such meeting; but the terms of office of the members of the several committees appointed by the President, shall commence immediately upon their appointment.

OFFICERS OF COMMITTEES, ETC.

VI. In appointing committees the president shall in each case designate one member thereof to act as chairman. Each standing committee shall continue until its successor shall be appointed.

MEETINGS OF STANDING COMMITTEES

VII. All standing committees shall meet on the days preceding each annual meeting, at the place where the same is to be held, at such hour as the respective chairmen shall designate.

SPECIAL MEETINGS

VIII. Special meetings of any committee may be held at such times and places as the chairman thereof may appoint.

TREASURER'S REPORT

IX. The Treasurer's report shall be examined and audited annually before its presentation to the Association, by two members of the Executive Council, to be appointed by the chairman thereof.

COMPLIMENTARY RESOLUTIONS

X. No resolution complimentary to any officer or member for any service performed, paper read or address delivered, shall be considered by the Association.

ORDER OF BUSINESS

XI. The Order of Business may be changed at any meeting by a vote of the majority of the members present, and except as otherwise provided by the Constitution or By-Laws, the usual parliamentary rules and orders will govern the proceedings.

CANDIDATES FOR MEMBERSHIP

XII. Applications for membership must be in writing and addressed to the President. Each application must be accompanied by a deposit to cover one year's dues in the Association. All applications shall be referred by the President to the Committee on Admissions. Applications shall state the name and place of applicant's admission to the Bar and such particulars as may best make known his character and professional status. No rejected candidate shall be again proposed for membership until after the expiration of two years. If any person elected as a member does not within three months after notice thereof sign the Constitution or by letter to the Secretary authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

ANNUAL DUES

XIII. If any member shall fail to pay his yearly dues for three months after the same became payable, it shall be the duty of the Treasurer to notify him by mail of his default, and should such defaulting member continue in default for three months thereafter, the same shall be reported to the Executive Council, which may, by order, without further notice, cause the name of such member to be stricken from the rolls.

COMPLAINTS

XIV. Whenever a complaint is presented to the Committee on Grievances, if the committee shall be of the opinion that the matters alleged are of sufficient importance, it shall cause to be served upon the person complained of, a copy of the complaint, together with not less than ten days' notice of the time and place of investigation and a similar notice shall be served upon the complainant. The answer to such complaint shall be in writing. At the time and place so appointed, or to which the hearing may be adjourned, the committee shall proceed to consider the case upon the complaint and answer (if any is interposed) and the evidence. Each party may appear personally and by counsel, who must be members of the Association. Witnesses shall vouch for the truth of their statements on their word of honor. If witnesses

summoned by the committee are members of the Association and refuse or neglect to obey the summons, they shall be reported to the Association for its action. The evidence and the parties and their counsel being heard, the committee shall make its decision, and if it finds the complaint to be true and of sufficient importance it will so report to the Association with its request of either party, it may also report the evidence or any portion thereof.

The Association will take such action on the report as it shall see fit, but no member shall be expelled or suspended unless by a vote of at least two-thirds of the members present and voting.

SPECIAL MEETINGS

XV. Special meeting of this Association, upon thirty days' notice thereof to the members, may be called by the Secretary upon request of the Executive Council, whenever in its judgment the business to be attended to shall be of sufficient exigency or importance to justify such call.

WITHDRAWALS

XVI. Any member of the Association may withdraw from the same upon full payment of all dues upon notice to that effect in writing, transmitted to the Secretary and by him referred to the Executive Council and approved by said council or the chairman thereof, unless at the time of such application for withdrawal complaint against such member shall have already been made by some member of the Association, as hereinafter provided, in which case no such application for withdrawal shall be considered by the Executive Council.

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